

## Helpdesk Research Report

# Restrictions on humanitarian access

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## Question

*What are the lessons learned from contexts where governments and de facto authorities have attempted to control, limit, and prohibit humanitarian access? How have humanitarian actors circumvented such blockages?*

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## 1. Overview

Humanitarian access is a challenge in many armed conflicts, both in areas controlled by state and non-state actors. This rapid review looks at the available literature on the lessons learned from contexts where governments and de facto authorities have attempted to control, limit, and prohibit humanitarian access and how humanitarian actors have circumvented such blockages. While there is some general guidance on strategies to address such access constraints, there is **very little publically documented evidence** on how exactly different humanitarian organisations have overcome specific instances of governments and de facto authorities' attempts to control, limit, and prohibit humanitarian access. The majority of the literature is grey literature published by humanitarian organisations, including their official guidance, as well as a number of independent evaluations. There is a need for more evidence and independent academic research to understand the tensions and strategies used to overcome restrictions to humanitarian access.

Governments and de facto authorities do not always welcome assistance and impose access constraints on humanitarian organisations, as a result of differing ideas about civilian protection; tactical/policy considerations; doubts about the true objectives of humanitarian actors; and fears of foreign influence.

Access constraints include **bureaucratic obstacles**, such as visa restrictions, travel permits, registration and approval procedures, and checkpoints; **interference in the implementation of humanitarian activities** by

state and non-state actors, including through demanding fees; and **security constraints** such as ongoing fighting and violence against humanitarian workers. The range of beliefs, motivations, and ways of operating among **non-state armed groups** can also make negotiating access with them particularly challenging. **Association with political or military actors** may make governments and de facto authorities reluctant to grant access to humanitarian organisations.

Some organisations are more successful than others in gaining or maintaining access, although there is no single strategy that would result in success across different contexts. Broadly, humanitarian organisations have attempted to overcome access constraints imposed by governments and de facto authorities by:

- **Engaging in humanitarian negotiations with all parties** to the conflict. This can be particularly challenging for small organisations who lack the capacity for the sustained dialogue needed or when there are objections to humanitarian organisations' negotiations with non-state armed groups. The way in which humanitarian organisations are perceived plays an important role in how effective their access to negotiations will be. Humanitarian organisations should be seen to be neutral, independent and impartial.
- **Programming under limited access** through strategies such as remote management, low profile approaches, working with local organisations, and cross border operations. These approaches entail compromises and have considerable risks, but may be the only way to gain access to populations in need.
- Using the **core humanitarian principles** and international humanitarian law (IHL), as well as national legal, traditional, and customary norms, to encourage all parties to the conflict to understand and allow humanitarian access.

## 2. Humanitarian access restrictions

The UN and other humanitarian organisations recognise that 'regular and sustained humanitarian access remains a key challenge in many armed conflicts' (UN, 2015, p. 13). Assistance is not always welcomed by governments of affected countries (Kunz and Reiner, 2013, p. 1); or by de facto authorities in areas outside of government control, which makes humanitarian access challenging. Access can be restricted as a result of security related concerns such as active hostilities and attacks against humanitarian workers and facilities; but also as a result of bureaucratic restrictions and interference in the delivery of assistance by various different state and non-state parties to the conflict (UN, 2015, p. 13; Steets et al, 2012, p. 5; ICRC, 2014, p. 2). In some conflicts, restrictions placed on humanitarian access has been a deliberate move on the part of the conflict parties to harm civilians (UN, 2015, p. 13).

A study looking at humanitarian access denial finds that states 'demonstrate considerable variation in how they obstruct humanitarian access, which suggests that national authorities hold differing perceptions of the norms represented by humanitarian access and, relatedly, civilian protection' (Labonte and Edgerton, 2013, p. 40). In addition, the study suggests that humanitarian access denial can constitute a valuable policy tool for national authorities and states use various constraints to advance different foreign and domestic policy goals (Labonte and Edgerton, 2013, p. 40).

### *Reasons for access restrictions*

Governments or non-state actors may impose constraints on humanitarian access as a result of their concerns over the politicisation of humanitarian aid due to debates around 'humanitarian intervention' or 'responsibility to protect' and fears of foreign influence (ICRC, 2014, p. 2; Kunz and Reiner, 2013, p. 2). Doubts may be raised about humanitarian actors' real objectives that can contribute to the erosion of confidence in these actors (ICRC, 2014, p. 2). This may make it harder to convince parties to an armed

conflict of their true intent to provide humanitarian relief, and can lead some armed actors to restrict or forbid humanitarian access or to result in threats or attacks against humanitarian organisations (ICRC, 2012, p. 2). In addition, as is the case in the Ukraine, governments may argue that they have to impose restrictions in order to prevent aid falling into rebel hands (Bennett and Jovanovski, 2015, p. 4).

Research looking at multiple case studies also suggests that the more fragile a government is, the more restrictions it imposes on relief organisations (Kunz and Reiner, 2013, p. 6). This may be as a result of fears that humanitarian organisations will challenge their political control (Kunz and Reiner, 2013, p. 8), knowing this could help humanitarian organisations to better prepare before entering a new country, by understanding and anticipating the fears of the national government (Kunz and Reiner, 2013, p. 9). Organisations should engage proactively with these governments and reassure them about their political neutrality (Kunz and Reiner, 2013, p. 9).

## **Constraints on humanitarian access**

### ***Bureaucratic obstacles***

Governments and de facto authorities have put in place bureaucratic obstacles to humanitarian access (WHS, 2015, p. 3; (Labonte and Edgerton, 2013, p. 43). While states are entitled to demand visas and impose restrictions on the entry and movement of relief personnel, goods and equipment, these restrictions can significantly hamper humanitarian activities (UN, 2012, p. 21). Bureaucratic constraints include registration and approval procedures for humanitarian organisations or projects and travel permit regimes (UN, 2012, p. 21). For instance, governments may refuse to allow travel to areas under the control of non-state armed groups, such as in Sudan (UN, 2012, p. 22; Steets et al, 2012, p. 5). Authorities can refuse or delay customs clearance for essential humanitarian supplies (Steets et al, 2012, p. 5). Movement within states is also restricted by physical and bureaucratic obstacles to humanitarian access and the delivery of assistance, such as checkpoints, which can severely prevent or delay movement; as has occurred in the occupied Palestinian territories (UN, 2012, p. 21). Occasionally, restrictions on the movement of affected people has restricted their access to humanitarian aid (UN, 2012, p. 22; WHS, 2015, p. 3).

### ***Interference in the implementation of humanitarian activities***

Humanitarian projects have been disrupted and assistance diverted as the result of interference by state and non-state actors pursuing a non-humanitarian agenda (UN, 2012, p. 23). In the Democratic Republic of the Congo, Somalia and South Sudan, for instance, humanitarian organisations have faced routine harassment and demands for fees (UN, 2012, p. 23). This has sometimes resulted in the closure of humanitarian organisations offices or their expulsion from that area (UN, 2012, p. 24).

### ***Security related constraints***

In addition to these bureaucratic obstacles to humanitarian access the security situation can limit humanitarian access (ICRC, 2012, p. 2; (Labonte and Edgerton, 2013, p. 43). Ongoing fighting often prevents sustained humanitarian activity, especially in the absence of agreed mechanisms with the parties to conflict for the delivery of assistance (UN, 2012, p. 23). This makes it very important for humanitarian actors to 'establish and maintain dialogue with all relevant parties, to explain and build acceptance of their humanitarian purpose and to negotiate acceptable terms for implementing their activities' (UN, 2012, p. 23). However, even when negotiations have led to agreements to allow access of humanitarian aid, these can break down after incidents of renewed fighting, as has occurred in Darfur, Sudan, for instance (UN, 2012, p. 23).

Another major constraint on humanitarian access involves violence against humanitarian workers, including kidnapping and killings, in countries such as Afghanistan, Kenya, Somalia, Pakistan, Yemen and Sudan (UN, 2012, p. 24). Attacks on humanitarian workers and convoys and the looting of supplies and assets has threatened humanitarian activities in the Central African Republic, the Democratic Republic of the Congo, South Sudan, the Sudan and Yemen, for instance (UN, 2012, p. 24). State security forces, non-state armed groups and criminal groups have all been implicated in these kinds of incidents (UN, 2012, p. 24). When negotiations are not possible, or have failed to reduce these attacks, humanitarian support is often reduced or withdrawn (UN, 2012, p. 24).

#### ***The diverse nature of non-state armed groups***

An increasing number of conflicts involve non-state armed groups (FDFA et al, 2014, p. 12). The range of beliefs, motivations, and ways of operating among these groups varies widely, creating challenges for negotiating humanitarian access (FDFA et al, 2014, p. 12). Their makeup and attitudes can also change over time, as commanders may be killed and new commanders may be more hostile to humanitarian organisations (Jackson, 2013, p. 14). For example, in Afghanistan, local Taliban were often more receptive to allowing access for humanitarian organisations than Taliban from elsewhere (Jackson, 2013, p. 14). In the Ukraine, infighting between non-state armed groups means that it is difficult to get aid past their multiple checkpoints (Bennett and Jovanovski, 2015, p. 4).

#### ***Involvement of political or military actors***

The involvement of political or military actors in or in support of relief operations can compromise the real or perceived neutrality and impartiality of humanitarian operations and pose challenges for securing humanitarian access from governments or de facto authorities (FDFA et al, 2014, p. 12). Linking humanitarian negotiations with political and other negotiations can also be problematic (McHugh and Singh, 2013, p. 4). For instance, in Sudan, regional and international efforts to facilitate dialogue on humanitarian access, at times tied humanitarian objectives to political and security objectives which meant that if either party was not ready to proceed on political and security issues at a particular time, progress on humanitarian access was also hampered (McHugh and Singh, 2013, p. 4).

### **3. Overcoming access constraints**

An independent evaluation for the European Commission on humanitarian access constraints and how they have been overcome found that some organisations are more successful than others in gaining or maintaining access (Steets et al, 2012, p. 6). However, it finds that it is impossible to identify any single access 'strategy' that would result in success across different contexts<sup>1</sup> (Steets et al, 2012, p. 6; GPC, 2012, p. 6). What works to overcome access constraints in one country can be counterproductive in others (Steets et al, 2012, p. 6). Despite this, the evaluation finds three groups of activities which help expand or preserve access, including persuading those who control access; mitigating and managing security risks; and operating through remote management (Steets et al, 2012, p. 6). There is also a clear trend in the most

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<sup>1</sup> The Swiss Federal Department of Foreign Affairs (FDFA), the United Nations Office for the Coordination of Humanitarian Affairs (UNOCHA), and Conflict Dynamics International (CDI) have developed a methodology for developing and implementing a structured approach to securing and sustaining humanitarian access in situations of armed conflict. It involves seven steps: i) frame the access context; ii) identify factors and actors; iii) analyse causes; iv) develop options for access; v) assess and prioritise options; vi) organise internally; vii) engage externally (FDFA et al, 2014, p. 47). Monitoring and evaluation throughout can be important for success (FDFA et al, 2014, p. 48).

successful organisations, to ‘de-Westernise their staff and recruit members of Diaspora communities or experienced locals for management positions’ (Steets et al, 2012, p. 10).

### ***Humanitarian negotiations***

Humanitarian organisations can negotiate with governments and de facto authorities to persuade them to remove or relax their barriers to humanitarian access. For instance, in Khyber Pakhtunkhwa and the Federally Administered Tribal Areas of Pakistan, coordination between humanitarian actors and the authorities has established an online tracking system for new project registrations, called ‘no-objection certificates’ (UN, 2012, p. 22). This has increased transparency and helped identify bottlenecks in administrative processes, and although there are still some delays in launching projects in some areas, it has helped to facilitate the implementation of humanitarian activities (UN, 2012, p. 22).

An independent study commissioned by OCHA on operating in complex security environments, has highlighted the importance of building acceptance for humanitarian action among communities and all the parties to conflict, suggesting it ‘remains the best way to gain safe and sustained access to people in need’ (UN, 2012, p. 25; see also Steets et al, 2012, p. 10). Building such acceptance is a process, not an event, which requires long-term investment in dialogue and sustained engagement with all relevant parties (UN, 2012, p. 25).

ICRC, for instance, works on building a ‘constructive dialogue and relationship with all relevant parties in a confidential manner, to promote trust and support for its activities, and to reach agreement with the parties about them’ (ICRC, 2014, p. 2). It works hard to not be perceived as pursuing political objectives in order to ensure its continued access, although it calls on all parties to respect International Humanitarian Law (IHL) and the Geneva Conventions which require that access is granted to impartial humanitarian actors during armed conflict when those populations are in need (ICRC, 2014, p. 3). It always seeks to operate with the consent of the states concerned in order to ensure effective action and to avoid exposing its teams to additional security risks (ICRC, 2014, p. 3).

International humanitarian organisations that were found by the ECHO evaluation to have been able to keep operating in difficult contexts long after others had to leave, implemented their programmes in close cooperation with local communities and have frequently integrated a development perspective into their work (Steets et al, 2012, p. 11). They maintained close contact with local authorities and traditional leaders, or invested strategically in networking with all relevant groups before and during project implementation (Steets et al, 2012, p. 11). Organisations need to be clear about their humanitarian principles and what they have to offer (Steets et al, 2012, p. 11).

International humanitarian organisations have ‘largely reverted to less vocal forms of private advocacy and networking to persuade rather than pressure power holders to grant access’ (Steets et al, 2012, p. 6). This is because they have concluded that public condemnations of human rights abuses and violations of international humanitarian law used to try and pressure authorities have been largely ineffective (Steets et al, 2012, p. 6). However, this does not mean that they oppose public advocacy (Steets et al, 2013, p. 6). Instead, they expect other, less operational actors to speak on their behalf (Steets et al, 2012, p. 6). For example, in Pakistan, Myanmar and Sudan, implementing organisations have encouraged humanitarian donors, humanitarian coordinators and the United Nations Office for the Coordination of Humanitarian Affairs (OCHA) to raise access concerns with government authorities (Steets et al, 2012, p. 6).

The importance of engaging relevant non-Western actors in humanitarian negotiations to increase the chances of success has been emphasised (Steets et al, 2012, p. 6). For instance, in the case of Myanmar,

the Association of Southeast Asian Nations (ASEAN) and the UN, were able to negotiate access for UN agencies and international humanitarian agencies after the government refused to allow access to humanitarian organisations after Cyclone Nargis (HRW, 2010, p. 8).

Humanitarian negotiations are challenging for smaller organisations, who may lack the capacity or resources to engage in lengthy negotiations with governments (Steets et al, 2012, p. 11). In addition, many humanitarian organisations lack the necessary information, guidance and capacity to effectively engage with all parties to a conflict (WHS, 2015, p. 3). For instance, accessing areas under the control of armed non-state actors requires careful and sustained dialogue which requires significant staff time, resources and capacity (Jackson, 2014, p. 1). Many humanitarian organisations lack this, as well as the information they would need to successfully engage with these actors (Jackson, 2014, p. 1).

Organisations such as OCHA can provide assistance and has supported the Yemen humanitarian country team, for example, to successfully negotiate access to people in need of assistance in areas under the control of non-state armed groups (UN, 2012, p. 23). This involved 'establishing contact and building trust between those groups and humanitarian actors through a series of meetings and workshops to introduce humanitarian principles and reach agreement on a joint inter-agency response plan' (UN, 2012, p. 23). Regular coordination meetings have been used to resolve access constraints and problems encountered in the implementation of the plan (UN, 2012, p. 23).

Advice on preparing for and engaging in humanitarian negotiations is provided in the Swiss Federal Department of Foreign Affairs (FDFA), OCHA, and Conflict Dynamics International (CDI)'s manual on humanitarian access (FDFA et al, 2014, p. 80-81). This includes advice to maintain separation between humanitarian and political negotiations and to remain principled, for instance (FDFA et al, 2014, p. 81).

#### ***Negotiations with non-state armed groups***

Humanitarian negotiation can be particularly challenging when negotiations with non-state armed groups are opposed or prohibited by certain actors, for example if they have been designated as 'armed illegal opposition', 'criminal groups' or 'terrorist groups' (FDFA et al, 2014, p. 96). Pressures exerted by donor and host governments not to engage with armed groups are strong (Jackson, 2014, p. 2). Opposition to negotiations with non-state armed groups are not necessarily explicit but can come in the form of denial of visas/travel permits, donor funding policies and restrictions, and restricting access to areas controlled by them (FDFA, 2014, p. 97).

Humanitarian organisation must decide whether to refrain from negotiating with these groups and risk not getting access and being able to meet humanitarian needs; or negotiate for access with these groups and face potential legal contentions, funding, and/or security-related consequences (FDFA et al, 2014, p. 97). As a result, some humanitarian organisations decide not to negotiate with non-state armed groups and thus do not work in areas under their control (FDFA et al, 2014, p. 97).

However, existing policy guidance affirms the importance of the need for negotiations with all parties to the armed conflict to ensure humanitarian access (FDFA et al, 2014, p. 97; Jackson, 2014, p. 1). Humanitarian organisations have conducted humanitarian negotiations with designated 'terrorist' groups in numerous situations, including in Lebanon (2006), the Gaza Strip in the Occupied Palestinian Territories (various times since 2005), Somalia (various times, including 2009), and Afghanistan (2008 – 2011) (FDFA et al, 2014, p. 100).

Few agencies have a clear strategy for engaging with non-state armed actors, which transfers responsibility downwards, with senior managers claiming not to talk to non-state armed groups, while field staff from

the same organisation often do (Jackson, 2014, p. 2). However, a number of organisations have developed a coherent strategy for engagement with armed groups, and have invested in the requisite capacity to implement it (Jackson, 2014, p. 2). As a result they have had greater and more sustained access (Jackson, 2014, p. 2). Experience from Somalia and Afghanistan suggests that engaging directly or indirectly with Al-Shabaab and the Taliban, early and deliberately, was critical to working consistently and safely in the territories they controlled (Svoboda and Redvers, 2014, p. 5).

Non-state actors' willingness to allow aid agencies access is largely driven by self-interest, so understanding the motivations and objectives of specific armed groups is critical for effective engagement (Jackson, 2014, p. 2). In addition, the changing situation on the ground can open and close opportunities for humanitarian access and humanitarian agencies need to respond to this (Jackson, 2014, p. 2).

Armed groups' perception of aid agencies is a critical factor in whether they are willing to engage with them (Jackson, 2014, p. 3). Access is complicated as a result of humanitarian agencies commonly being viewed with suspicion; and engaging unsustainable work that was not seen as driven by civilian priorities reinforces this suspicion that aid agencies are siding with 'enemies' of the armed group (Jackson, 2014, p. 3). Aid agencies can increase leverage by drawing on past positive associations and undertaking good-quality programming aligned with needs identified by the community and adhering to plans shared with armed actors at the outset (Jackson, 2014, p. 3). It is also crucial for aid agencies to actively cultivate perceptions of their work as neutral, independent and impartial (Jackson, 2014, p. 3). They need to consistently demonstrate independence from 'stabilisation' and 'counter-insurgency' activities (Jackson, 2014, p. 3). Humanitarians agree that the task of negotiating humanitarian access with non-state armed groups should be left to implementing organisations (Steets et al, 2012, p. 6). In areas where there are multiple armed actors, agencies need to carefully consider and balance their relationships to avoid being perceived as supporting one over another (Jackson, 2014, p. 4).

Humanitarian negotiations are most successful when aid agencies develop relationships with armed actors at all levels (Jackson, 2014, p. 3). Dialogue with the rank and file is required to ensure compliance with any agreement reached with the group's leaders (Jackson, 2014, p. 3).

A policy note based on research into negotiation with armed non-state groups suggests that there should be more coordinated action and advocacy to tackle the broader challenges to engagement (Jackson, 2014, p. 4). For instance, access constraints such as counter-terror legislation, as in Somalia, and host government access bans, as in Sudan, require a common position and high-level, coordinated advocacy and policy dialogue (Jackson, 2014, p. 4). Shared information-gathering and analysis can be an effective solution to the challenges of analysing armed groups and conflict dynamics (Jackson, 2014, p. 4). OCHA and the UN Department of Safety and Security (UNDSS) played a valuable role in mapping armed groups and establishing contacts early in the Darfur conflict, for instance (Jackson, 2014, p. 4). On issues such as payments to armed groups, more is likely to be gained by collective bargaining – or at least a common bargaining position – than acting alone, and therefore a common agreement on red lines or informal 'ground rules' is important for aid agencies operating in the area (Jackson, 2014, p. 4). Experience of negotiating with non-state armed groups is seldom shared among aid agencies (Svoboda and Redvers, 2014, p. 6). Negotiations with armed groups often take place with a lack of transparency, which can be counter-productive and dangerous (Jackson, 2014, p. 4).

### ***Community negotiations***

In some cases, such as Afghanistan, aid agencies relied on elders or other community members to negotiate access (Jackson, 2014, p. 14). This only worked where these elders had a good relationship with the Taliban or where local commanders were not predisposed to limit access (Jackson, 2013, p. 14). However this

posed significant risks for these elders or communities, which makes such a policy ethically questionable (Jackson, 2013, p. 15).

### ***Programming under limited access***

Humanitarian organisations who operate under limited access sometimes have to decide what ‘compromises to accept without risking the long-term deterioration of established humanitarian principles and minimum operating standards’ and what the ‘red-line’ is, at which point it is better to withdraw (Steets et al, 2012, p. 7-8, 13). These relate to the use of armed guards, paying for access or delivering cross-border assistance, for instance (Steets et al, 2012, p. 8). Agreeing to pay Al-Shabaab registration fees was a common practice among the agencies operating in areas under its control (Jackson, 2014, p. 4). Donors can play an important role in defining acceptable practice and clarifying how far organisations should go to secure or expand access; although an ECHO study suggests that it would not be feasible for donors to define rigid global ‘red lines’ (Steets et al, 2012, p. 13). The humanitarian principles of humanity, impartiality, neutrality and independence, need to be weighed against each other and balanced with considerations regarding accountability and the potential negative effects of assistance (Steets et al, 2012, p. 13).

### ***Remote management***

Remote management can allow organisations to continue some activities in situations where access is limited by transferring management and monitoring responsibilities to less experienced national or local staff members and/or external partners (Steets et al, 2012, p. 8; WHS, 2015, p. 3). Managing projects remotely means reducing control and oversight, which increases the risk of aid diversion and can reduce project quality (Steets et al, 2012, p. 8). It may also cause a transfer of risks to local staff or partners, who have borne the brunt of attacks against aid workers (Steets et al, 2012, p. 8; WHS, 2015, p. 3). However, remote management is often the only way to provide assistance to those in need (Steets et al, 2012, p. 8). Despite this, the ECHO evaluation suggests that the risks mean that remote management should be a last resort (Steets et al, 2012, p. 14).

There is reported to be a growing sense of unease among donors and implementers about the increasing reliance on remote management (Steets et al, 2012, p. 8). Donors are recommended to carefully consider a number of issues when deciding what kind of remote operations it is prepared to finance (Steets et al, 2012, p. 8-9).

In Somalia, the risks of remote management were mitigated by one INGO by: i) developing extensive monitoring and evaluation procedures and verifying information through triangulation; ii) establishing fluent, effective, and frequent communications between field and remote office staff; and iii) focusing on training and capacity building of local staff; iv) promoting local staff ‘ownership’ while maintaining strong accountability mechanisms; v) strengthening community relations; vi) using high quality context analysis; and vii) displacing risk up the management chain by making clear that resource decisions are made from a remote location (FDFA et al, 2014, p. 75-76).

### ***Low profile approaches***

Some humanitarian organisations have ensured humanitarian access by lowering their profile, for example by using “de-branding” (of vehicles and facilities, etc.) or “blending” strategies (e.g. use of rented vehicles) (FDFA et al, 2014, p. 67). For instance, in ISIL controlled areas of Iraq, international organisations are distributing relief items in plain black bags and not using UN or international staff to deliver them (Svoboda and Redvers, 2014, p. 3).



***Working with local organisations***

In the Ukraine, for instance, international organisations such as MSF and People in Need (PIN) have been working with and through local organisations across the front lines; with a consistent presence in both rebel-held territories (Bennett and Jovanovski, 2015, p. 4). The local Red Cross has been very important in overcoming any difficulties ICRC has in gaining access (Bennett and Jovanovski, 2015, p. 4). National and local organisations are often able to complement international organisations by accessing areas and undertaking activities not covered by the government or by international agencies (Bennett and Jovanovski, 2015, p. 6). However, international organisations have often been reluctant to work with them because they fear these local organisations lack neutrality, impartiality and independence (Bennett and Jovanovski, 2015, p. 6). There is a risk that aid could be manipulated by local groups which must be mitigated against (Bennett and Jovanovski, 2015, p. 7).

In Syria too, the Syrian Arab Red Crescent (SARC), in partnership with ICRC, has been the main organisation responsible for delivering aid in both government and opposition controlled areas. It is one of the few organisations which has authorisation to deliver humanitarian assistance within Syria, yet has significant pressure from the Syrian government, and fought allegations of partiality in aid delivery and a lack of independence<sup>2</sup>.

***Cross-border operations***

Humanitarian organisations have occasionally attempted to overcome humanitarian access restrictions by delivering through cross border operations. In Syria for instance, a few international organisations, such as MSF, have attempted to circumvent state restrictions on humanitarian access by engaging in cross-border operations to reach populations in opposition-controlled areas<sup>3</sup>. The UN has also authorised humanitarian access to Syria through cross-border and cross-line operations without requiring prior permission from Syrian authorities; and is facilitated by OCHA through the Turkish Red Crescent and local NGOs (SNAP, 2014, p. 11). However, such assistance has been limited and dangerous<sup>4</sup>, although it has increased humanitarian access to some extent (SNAP, 2014, p. 11).

***Alternative courses of action***

As a last resort, humanitarian actors may donate essential items to a third party for distribution; train and support local organisations to provide services, or advocate for other, non-humanitarian actors to deliver relief supplies (FDFA et al, 2014, p. 69). They need to carefully assess alternative courses of action for their potential humanitarian impact and consequences prior to implementation (FDFA et al, 2014, p. 69).

***Core humanitarian principles***

The core principles of humanity, neutrality, impartiality, and independence provide a normative basis to guide humanitarian action (FDFA et al, 2014, p. 18). They are an important foundation of humanitarian access as they can help ensure acceptance by all relevant parties and guide humanitarian agencies in developing and implementing approaches to gain humanitarian access (FDFA et al, 2014, p. 18). Lack of acceptance of these core principles by political elites results in significant humanitarian access challenges (Labonte and Edgerton, 2013, p. 54-55). Adhering to these principles can ensure trust in humanitarian organisations and help them to clearly communicate the motivations behind their actions which can help ensure access (FDFA et al, 2014, p. 21, 62).

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<sup>2</sup> <http://www.atha.se/blog/syria%E2%80%99s-arbitrary-denial-consent-keeps-aid-reaching-syrians-need>. Retrieved 10/11/15.

<sup>3</sup> Ibid.

<sup>4</sup> Ibid.

There have been cases where humanitarian organisations have compromised on some of these in return for access, such as in Sri Lanka, but this can also result in them not being able to work effectively and ultimately refusing to compromise anymore and withdrawing or being forced to withdraw (FDFA et al, 2014, p. 20; HPG, 2010, p. 2). In Sri Lanka, the ‘concessions and silences that appeared to serve the imperative of securing access only emboldened the Sri Lankan government in its efforts to progressively and systematically shrink humanitarian space, and neither access nor staff security were enhanced as a consequence’ (HPG, 2010, p. 3).

### ***International humanitarian law (IHL)***

International humanitarian law applies in armed conflict, and the IHL framework regulating humanitarian access mainly revolves around four main stages:

- each party to the armed conflict bears the primary obligation to meet the needs of the population under its control;
- impartial humanitarian organisations have a right to offer their services in order to carry out humanitarian activities, in particular when the needs of the population affected by the armed conflict are not fulfilled;
- impartial humanitarian activities undertaken in situations of armed conflict are subject to the consent of the parties to the conflict concerned. Under IHL, the parties to the conflict concerned must consent to such activities when the needs of the population under their control are not met; and
- once impartial humanitarian relief schemes have been agreed to, the parties to the armed conflict as well as all states which are not a party to the armed conflict concerned must allow and facilitate rapid and unimpeded passage of these relief schemes, subject to their right of control (ICRC, 2014, p. 4).

IHL does not give unrestricted rights of access to all impartial humanitarian organisations (ICRC, 2014, p. 5). Offers of assistance must be accepted by the party to the conflict before humanitarian organisations can operate there (ICRC, 2014, p. 5). However, under IHL, the decision of the party concerned to consent to relief schemes in its territory is not discretionary and they must consent if the needs of the population under their control are not met (ICRC, 2014, p. 5, 6). When consent is given, all parties and states concerned must allow and facilitate humanitarian assistance, even if it is intended for the population under the control of the enemy (ICRC, 2014, p. 5). Parties and states are allowed to exert a right of control over the humanitarian operations, although this should unduly delay them or make their implementation impossible (ICRC, 2014, p. 5). Military necessity cannot be used under IHL to turn down a valid offer of services and to deny in their entirety the humanitarian activities proposed by impartial humanitarian organisations (ICRC, 2014, p. 5).

### ***National legal, traditional, and customary norms***

National legal, traditional, and customary rules and norms can sometimes usefully reinforce the international normative framework relating to humanitarian access and be used by humanitarian actors to justify their arguments for access to be granted (FDFA et al, 2014, p. 37). This is especially in situations where actors influencing humanitarian access do not recognise or accept the core humanitarian principles or the international normative framework; where they are more likely to accept traditional and customary norms as a basis for humanitarian access; and where they reject the international normative framework but are willing or obliged to work in the context of the national legal framework (FDFA et al, 2014, p. 38).

It can sometimes be in the interest of non-state armed actors to comply with international legal norms and humanitarian actors can use them as points of leverage for engagement and negotiation of access (FDFA et al, 2014, p. 43; Jackson, 2014, p. 2).

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