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DENIAL DELAY, DELAY, DIVERSION

Tackling Access Challenges in an Evolving Humanitarian Landscape

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Senator Cory Booker & Senator Todd Young

A REPORT OF THE CSIS TASK FORCE ON HUMANITARIAN ACCESS





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LETTER FROM THE CO-CHAIRS

As United States Senators, we have dedicated our careers to leaving this country and the world stronger, more tolerant, and more just. When the Center for Strategic and International Studies (CSIS) approached us to be on the Task Force on Humanitarian Access, we understood that the goals of this Task Force were directly in-line with the mission that has driven our lives in public service.

We believe that the role of government is, first and foremost, to protect its people. Yet with increasing frequency, governments across the world are failing this charge. Today, our world struggles with a disheartening increase in armed conflicts and humanitarian emergencies. These conflicts leave vulnerable civilians struggling to meet the basic needs of human life. Armed conflict now drives extreme levels of migration, increasing the numbers of refugees and internally displaced people, while causing unconscionable loss of life. We are shocked by the tragedies unfolding around the world, the loss of human life and dignity, and the erosion of long-held values.

The United States has historically been a leading responder to these crises, in funding and diplomacy. Humanitarian assistance is a critical component of United States foreign policy and represents an expression of American values in an increasingly unstable world. United States humanitarian assistance is borne out of a moral imperative and contributes to critical national interests. Humanitarian aid projects a positive view of the United States abroad, responds to national security challenges, and helps build resilience for the future. Yet, we are concerned that at a time when global norms are being challenged by China and Russia, the United States is stepping back from its leadership on these issues when it is needed most.

The Task Force on Humanitarian Access brings to light a disheartening trend in humanitarian action—the denial, delay, and diversion of critical assistance for the most vulnerable. Access constraints take myriad forms. In some conflicts, bureaucratic barriers imposed by host countries limit the ability of aid organizations to enter the country and establish aid programs. In the field, access constraints imposed by state and non-state actors include checkpoints, active and

passive security risks, and infrastructure limitations. Ongoing conflicts in Yemen, Syria, and South Sudan clearly illustrate the magnitude of this issue.

Humanitarian aid organizations have seen the slow chipping away of access over the past years as limiting their ability to save lives. For those that have dedicated their lives to reducing human suffering, access denial is not a new issue but is becoming increasingly acute. Even worse, it has become normalized, challenging the moral principles around civilian protection built into the Geneva Conventions.

Our hope is that this initiative will raise the profile of these critical issues and serve as both a warning to those who would deny humanitarian access and as a call to action for U.S. policymakers, the United Nations, and aid agencies. Solutions to mitigating access constraints begin with the reassertion of U.S. leadership on humanitarian issues. Given the growing number of people in crisis and growing international competition, now is the time to ensure humanitarian access issues are prioritized at the top levels of government and in our national security strategies and planning. We believe that bringing increased attention to those responsible for continuing to impede access will allow Congress and the administration to work together in a bipartisan way to tackle access challenges across the world. We also know that sometimes our government gets in its own way, and we believe that more can be done to streamline humanitarian funding and bureaucratic processes to make sure that the assistance we appropriate can get where it needs to go. Finally, we understand that access challenges are fundamentally political. Yet innovations in humanitarian practice and technology can overcome some of the challenges, and we look forward to supporting those efforts by working with the administration on training and funding initiatives.

The rapid rise in conflict and fragility makes this a critical junction for the future of humanitarian assistance. Now is the time for greater United States leadership. We stand united to support bipartisan efforts to confront the challenges of humanitarian access.

We would like to thank CSIS and the members of the Task Force for leading on this research and continuing to draw attention to this vital issue.

Senator Cory Booker (D-NJ) United States Senate, New Jersey

Senator Todd Young (R-IN) United States Senate, Indiana

I EXECUTIVE SUMMARY

Principled humanitarian action is under attack around the world. Violent conflict has reached record highs. As of August 2019, 70.8 million people are considered forcibly displaced by armed conflict, and nearly 132 million people need emergency humanitarian assistance. At the same time, there has been a steep escalation in the deliberate, willful obstruction of humanitarian access, impeding the ability of humanitarian aid to reach the most vulnerable people and vice versa. Blocked humanitarian access is an urgent crisis which demands our heightened attention.

In Afghanistan, more than six million people are in acute need of humanitarian assistance, yet the Taliban has banned the World Health Organization and International Committee of the Red Cross from working in crucial areas. Severe constraints on movements for humanitarian organizations by all parties to the conflict, aerial bombardments, and draconian restrictions on critical imports, such as food, fuel, and medicine, have left Yemen teetering on the brink of famine. In Northeast Nigeria, state armed forces coerce civilians into garrison towns in order to access emergency aid. In Syria, South Sudan, and Myanmar, governments and non-state actors unapologetically use siege, starvation, and obstruction as military and political tactics, putting millions of their own people at risk while impeding aid agencies from operating. Meanwhile, rising populism in donor states fuels skepticism about humanitarianism itself, undermining donor willingness to engage in difficult but necessary humanitarian diplomacy to tackle access challenges.

Governments bear the primary obligation to meet the needs of civilian populations and consequently must consent to impartial humanitarian activities when and if they cannot provide for that population. The responsibility of parties to a conflict, be they states or armed groups, to allow access to humanitarian assistance is well enshrined in treaty and customary international law. Yet, humanitarian organizations consistently report an increase of intentional obstruction of humanitarian operations, perpetrated by states and non-state armed groups alike, without regard for the health and safety of victims of violence, often with specific intent to harm communities and civilian infrastructure.

Humanitarian aid is an industry that introduces billions of dollars' worth of commodities into highly contested conflicts that armed actors seek to control, and often to deny to civilian populations. Denial of access takes many forms, from mundane bureaucratic delays to horrific attacks on civilians seeking refuge and aid workers. At its core, denial of humanitarian access is an attack on the most vulnerable persons in conflict situations and a corrosive, costly affront to the norms and standards of humanity established after World War II, including

the Geneva Conventions and the Universal Declaration of Human Rights. Access denial itself is not new but has shifted from being an unintended consequence of conflict to a weapon of war used for political or military gain.

Today's global access crisis is a symptom of broader, connected trends, including the massive increase in humanitarian needs, a collective failure to find political solutions to end armed conflicts, and the rapid erosion of norms governing armed conflict and humanitarian action. In this complex geopolitical environment, complying with the regulatory and legal burden imposed by donors and the actual security risks fall on humanitarian actors at the frontlines of humanitarian response. Meanwhile, the humanitarian agencies they represent struggle to deal with increased costs and the reputational, legal, and security risks that access delays and denial impose.

Failure to resolve these issues has consequences. Millions of vulnerable lives hang in the balance.

Legacy, Impact of U.S. Humanitarian Leadership

Since the end of World War II, the United States has been a leader in the humanitarian sector, reflecting moral and ethical considerations and America's interest in global influence and stability. In 2018, the United States appropriated nearly \$9 billion dollars for humanitarian assistance, reaffirming its status as the world's largest humanitarian donor.

U.S. humanitarian assistance supports multiple national interests, including alleviating human suffering, promoting stability and security, and projecting a positive view of the

U.S. humanitarian assistance supports multiple national interests, including alleviating human suffering, promoting stability and security, and projecting a positive view of the United States abroad during a period of increased great power competition.

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As the leading financial contributor to humanitarian action, and as a party to conflicts with access challenges, the United States has a unique responsibility, opportunity, and interest in safeguarding humanitarian activities. In many respects, the United States remains a leader in humanitarian policy and practice, yet the United States is visibly failing to quickly and aggressively address the worsening crisis of denied humanitarian access—an absence of political and diplomatic leadership that encourages perpetrators and victims alike to assume there will be no meaningful consequence for blocking humanitarian access.

U.S. policies enacted in response to a range of national security concerns can in other ways contribute to access challenges, undermining the policy goals of humanitarian assistance and straining precious resources. Extensive legal and policy restrictions limit humanitarian actors' capacity to respond to crises. Counterterrorism policies and sanctions programs, while critical for national security, can at times criminalize and carry the risk of prosecution for life-saving humanitarian activity should assistance fall into the hands of sanctioned actors. Furthermore, U.S. security partnerships, designed to strengthen partner military and defense forces, are failing to adequately address the humanitarian impact of military action by partner forces in highly contested battlefields. To advance long-term stability and security in fragile states, the United States needs to balance the complex challenge of meeting the basic humanitarian needs of vulnerable populations with responding to national security concerns.

Access challenges are more than obstacles to assistance; they jeopardize foreign policy objectives writ large. For those who believe U.S. humanitarian assistance is essential to promoting a positive view of the United States abroad, access challenges undermine those potential gains. Access challenges also perpetuate fragility, threatening the stability agenda understood as essential for national security.

The CSIS Task Force on **Humanitarian Access**

In March 2019, CSIS launched the Task Force on Humanitarian Access, thanks to support from the U.S. Agency for International Development (USAID). The task force's mandate was to spotlight humanitarian access issues in foreign policy discussions, illuminate the root causes and grave consequences of access denial, and develop actionable, concrete recommendations for the U.S. government, the United Nations (UN), and the humanitarian sector to mitigate access barriers, with the aim of saving lives, reducing human by officials in the administration and Congress of the

Tackling field-based access challenges requires dedication to political solutions to complex crises and a willingness to engage-bilaterally and multilaterally-in committed. sustained humanitarian diplomacy.

suffering, and increasing the impact of U.S. humanitarian assistance funding.

Guided by Co-Chairs Senator Cory Booker (D-NJ) and Senator Todd Young (R-IN), the task force brought together former U.S. government and UN officials, representatives of the non-governmental humanitarian community, and thought leaders from thinks tanks and academia for convenings at CSIS and additional side meetings under the direction of Kimberly Flowers, the director of CSIS's Humanitarian Agenda program.

Over the course of the task force's deliberations, several key themes emerged.

First, the international community, led by the United States, should visibly recommit itself at the highest levels to its obligations under international humanitarian law (IHL) and to the principles of humanitarian action. Tackling field-based access challenges requires dedication to political solutions to complex crises and a willingness to engage—bilaterally and multilaterally—in committed, sustained humanitarian diplomacy. This includes reinforcing the primacy of IHL and humanitarian principles, avoiding quick-fix quid-pro-quo bargains at the UN that further compromise humanitarian laws and norms, and focusing efforts on preventing and resolving conflicts.

Second, to reduce and mitigate the impacts of obstructed humanitarian access and maximize U.S. policy effectiveness, humanitarian considerations must be systematically elevated alongside national security objectives. This requires a fundamental rebalance that acknowledges the centrality of both security and humanitarian interests in conflict-affected regions. Doing so requires a far greater understanding challenges and risks associated with humanitarian action and the interplay with foreign policy and national security objectives. It also requires a renewed commitment to risk and burden-sharing with humanitarian actors. This elevation of humanitarian concerns relative to national security objectives should be done with the recognition that ultimately the two are not in conflict but can be mutually reinforcing. The United States and other donors should work with partner governments to ensure access for urgent humanitarian action in ongoing conflicts in which donors themselves are engaged. Domestically, governments need to ensure that counterterrorism legislation recognizes and accounts for humanitarian action, safeguarding impartial humanitarian action from criminal and civil liability.

Third, the United States and other donors, the UN, and humanitarian actors should systemically collect current data on the extent and impact of access violations. This data will be essential in grounding debate and help rebut the obfuscation and denial by violators that is rampant today.

And fourth, the United States should work alongside other donors with local and international humanitarian partners and the private sector to find and fund technological and practical innovations in the humanitarian sector that can alleviate security or logistical constraints. Donors should also work with operational agencies to fund and equip humanitarian providers, including community-based organizations, with the essential skills to conduct the complex local negotiations that can facilitate access in volatile communities.

This report describes the contours of the problem, explores the role of the United States, and offers recommendations for overcoming the manifold access challenges. The ideas and conclusions captured in this report represent a majority consensus of the task force members but do not imply institutional endorsement by the organizations that the members represent.

We propose action in four key areas. The full list of recommendations can be found in Chapter Five.

- ❖ Elevate humanitarian interests and make access a foreign policy priority. The United States should overtly elevate humanitarian issues alongside foreign policy and national security priorities, making them a sustained focus of high-level diplomacy with partner governments and allies and at the United Nations.
- ♦ Strike a new risk balance. The United States, other donor government, and the United Nations should reconcile tensions between national security and humanitarian interests, including in counterterrorism regulations, and establish mechanisms for a transparent, predictable,

- and durable balance that better protects the integrity of humanitarian operations and staff in conflict areas.
- ◇ Increase accountability and harness the power of data. The United States, other donor governments, and the United Nations should empower partners and UN agencies to safely and more effectively document and share data on obstruction of humanitarian access, strengthen required annual reporting on and monitoring of access constraints, and increase the political and reputational costs of access denial by states and armed groups.
- Bolster training and technology. The United States, donor governments, and UN agencies should collaborate with humanitarian actors to build frontline humanitarian negotiation and diplomatic skills. Officials in donor governments should be trained and equipped to support frontline negotiations and humanitarian operations. The United States and other donors should continue to fund and focus on innovative technologies and practices that can overcome access challenges.



PREVIOUS PAGE

Aid is delivered to a town in eastern Ghouta, Syria for the first time in five years.

AMER ALMOHIBANY/AFP/ Getty Images



umanitarian access is the ability of humanitarian aid to reach the most vulnerable and for the most vulnerable to reach humanitarian aid.¹

First explicitly defined by the United Nations General Assembly (UNGA) in 1991, it is regularly reaffirmed in UNGA and United Nations Security Council Resolutions (UNSCR), including in UNSCR 2417 (2018), which underlined the importance of safe and unimpeded access for humanitarian personnel. Humanitarian access is not limited to aid provided by international humanitarian agencies but encompasses access to the basic necessities of life regardless of source. Access is based on need and lies at the core of any humanitarian response; it is a prerequisite for delivery of lifesaving assistance and necessary at every stage of the humanitarian program cycle.

Definitions often incorporate the need for access to be consistent with "humanitarian principles" and require freedom of movement of populations.⁵ A coherent understanding of what constitutes meaningful, quality access can be elusive. Access is easily understood when it is denied outright. It becomes murkier—a matter of judgment—when the question is what quality of access is permitted and under what restrictions. The quality and consistency of humanitarian access thus needs to be systematically monitored and analyzed in order to ensure affected populations receive enough assistance and protection and that donor funds and humanitarian activities are meeting desired aims in a safe, consistent, sustained, and legal manner.

Access is an essential component of civilian protection. Protection in humanitarian contexts is understood as activities that protect the rights, dignity, and safety of civilians affected by conflict. While access can bolster the protection of civilian populations through the presence of humanitarian agencies, it is not a goal in and of itself. Consequently, access is a fundamental prerequisite to implementing a comprehensive humanitarian response that incorporates assistance and civilian protection.

Humanitarian access is the ability of humanitarian aid to reach the most vulnerable and for the most vulnerable to reach humanitarian aid.

LEGAL FOUNDATIONS OF HUMANITARIAN ACTION AND ACCESS

The legal foundations establishing the rights to basic humanitarian assistance, and by extension the rights and duties regarding delivery of assistance and the facilitation of access, are found within international human rights law and international humanitarian law.

The core legal principles of international humanitarian law (IHL), also known as the Law of Armed Conflict and international human rights law (IHRL) affirm that the duty for responding to the needs of civilians in a situation of armed conflict rests first and foremost with parties to the conflicts themselves.9 It is here where the international community is failing most explicitly. States and armed groups continue to wantonly harm civilian populations in situations of conflict and violence and impede and obstruct assistance to the most vulnerable.10

IHL provides that if parties to a conflict cannot meet the needs of the affected populations, humanitarian organizations can offer their services. While consent of the affected state is required, it cannot be arbitrarily withheld.11 Once an agreement has been reached, all necessary measures to facilitate such assistance should be provided.12

IHRL, applicable during situations of armed conflict as well as peace time, primarily consists of nine core treaties which confer on the state parties obligations to respect and protect the rights of those within their territories. 13,14 The fundamental applicable treaty provisions in human rights law, including the rights to basic food and health, are considered rights that cannot be compromised, even during times of emergency.¹⁵ Consequently, in a general sense, it is understood that during times of armed conflict, the rights of civilians to basic human needs—including food, water, health care, and shelter—are protected by IHRL.

IHL, whose application is limited to situations of armed conflict, sets out the obligations of parties to a conflict, including establishing the protections that must be provided to a civilian population, the medical mission, and combatants who are hors de combat. The Geneva Conventions provide the legal framework for the provision of assistance and the requirement of its facilitation. For international armed conflicts:16

- ♦ Article 27 of the Fourth Geneva Convention establishes the duty for protected persons to be treated humanely. Article 30 of the Fourth Geneva Convention establishes the norm by which humanitarian organizations can assume the duties of the protecting power, and states that humanitarian organizations are to be granted "all facilities" for the purpose of providing humanitarian assistance.
- ♦ Article 23 of the Fourth Geneva Convention broadens the scope to the whole of populations of countries in international armed conflicts and expressly calls for "free passage of all consignments of medical and hospital stores . . . and foodstuffs."17
- ♦ These provisions are bolstered by Articles 69 and 70 of Additional Protocol I, which add that humanitarian and impartial assistance should not be considered interference in an armed conflict and should be afforded rapid and unimpeded passage. It also describes protections for assistance workers.18

In non-international armed conflicts, Common Article 3 of the Geneva Conventions establishes minimum standards, including that persons not taking active part in hostilities be treated humanely and that wounded and sick be cared for and protected against outrages to personal dignity.19 Article 4 of Additional Protocol II likewise requires that persons not taking an active part in hostilities be treated humanely.20 With respect to the delivery of humanitarian assistance in a non-international armed conflict, paragraph 2 of Common Article 3 and Article 18(2) of Additional Protocol II permit impartial humanitarian organizations to offer their humanitarian services.21,22

SOVEREIGNTY VERSUS RESPONSIBILITY

The notion of consent (by state parties) creates a layer of complexity to the legal understanding.23 Some argue that states maintain the ultimate right to grant consent based on principles related to state sovereignty.24 They argue that states maintain the prerogative to allow assistance to reach an affected population. For those who assert the primacy of state sovereignty, the nature and manner of assistance delivery become essential to the legal discussion. As the relevant provisions of law indicate, states would be within their legal rights to impede delivery of aid that was partial or biased by nature. Furthermore, the provisions afford states a certain amount of oversight, prescribing the technical arrangements under which passage of humanitarian aid is provided. 25,26 This interpretation, however, also requires a consideration of a state's fundamental duty to care and protect for populations within their control, with a strong consensus acknowledging that states that fail to meet this duty abrogate their right to withhold consent.27

Article 55 of the customary law study by the International Committee of the Red Cross (ICRC) confirms an affirmative responsibility on states and armed groups to allow assistance deliveries to pass subject to their right of control.²⁸ These principles are strengthened when understood in conjunction with the relevant provisions in IHRL, leading to a generally held view that consent may not be arbitrarily withheld and that the arbitrary withholding of consent would constitute a violation of legal norms of both IHL and IHRL.^{29,30}

For this paper, access denial should be understood to exclusively refer to unlawful denial, as the rights of civilians and obligations of controlling parties are broadly clear,^{31,32}

SYRIA ACCESS UNDER SIEGE

The noxious blend of politicization of humanitarian action and deliberate targeting and deprivation of civilians and civilian targets in Syria underscores the way access has been politicized since the beginning of the Syrian conflict by state and non-state actors.³³

The diplomatic suasion, persistence, and tenacity of Syrian national aid workers have enabled emergency humanitarian response to millions of affected people. UN Security Council Resolution 2165 and its subsequent renewals enable humanitarian actors to provide cross-border relief without having to obtain consent from Damascus. 34 Some humanitarian organizations chose not to operate cross-border and have negotiated access through Damascus throughout the duration of the war. 35

The difficulty of sustaining this response and the degree to which Syrian civilians have been deprived of meaningful humanitarian support is heightening significant civilian protection concerns; lack of sustained humanitarian presence invites harmful behavior by local actors. ³⁶ In addition, lack of sustained, meaningful humanitarian assistance for years is yielding deeper structural consequences for overall civilian health, education, and wellbeing that will take decades to recover.

Several factors unique to Syria affect quality humanitarian access. First, a planned withdrawal of U.S. forces from northeastern Syria is causing confusion and uncertainty for humanitarian organizations, especially local actors and those that rely upon cross-border access.³⁷ This may affect organizations that lack resources to guarantee the security of their workers or those unable or unwilling to register with the government in Damascus. In addition, pending civilian casualty investigations from the coalition's counter-ISIS operations will become more difficult to pursue, narrowing the possibility of redress to civilians if the United States or its allies were responsible.

Second, cross-border assistance, originally authorized by UNSCR 2165, remains a critical component of quality humanitarian action in Syria. According to the 2019 Humanitarian Needs Overview, 38 percent of people in need are in non-gov-

ernment-controlled areas, and 51 percent of this population lives in areas "with high severity of need." It is unlikely that cross-line access will be granted to reach these people in a sustainable manner.

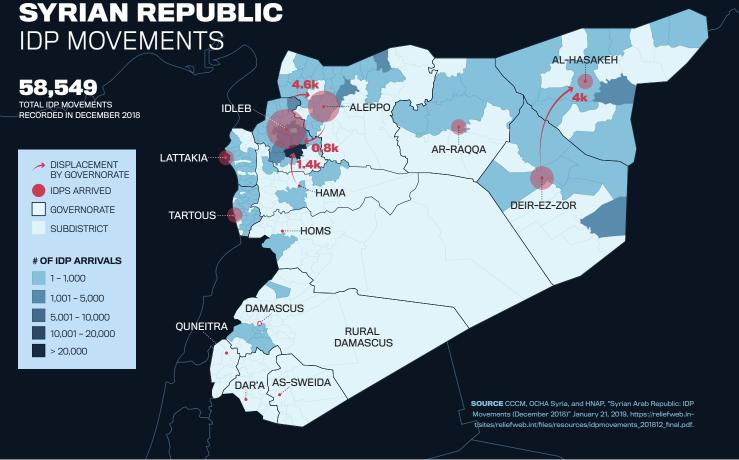
Third, humanitarian organizations inside Syrian government-controlled areas face threats to safety and security, visa restrictions, constrained reach to the most vulnerable populations (versus those that the government will let them access), and barriers to banking and money transfers.

Finally, the competing objectives of donors and parties to the conflict, as well as the complexity of the Syrian conflict itself, have prompted donor concerns about the accountability and transparency of quality humanitarian action. The Syrian government is largely responsible for this opacity: local aid workers are threatened with government retribution. In addition, for important national security, legal, and accountability reasons, the U.S. government and other donors have implemented reviews and restrictions to prevent the diversion of humanitarian aid to terrorist organizations. However, implementers report that these restrictions pass all the risk to non-governmental organizations (NGO)s and have severely impeded assistance delivery to critical areas and access to local civilians.

Donors, the UN, and NGOs must collectively elevate the importance of meaningful sustained access—to conduct needs assessments, monitor distributions and services, prioritize the most vulnerable, deliver assistance, prevent the diversion of humanitarian aid to unwanted actors, and evaluate impact—thereby improving civilian protection with sustained humanitarian access and presence. Political loyalties have no place in humanitarian relief. As one stakeholder shared with CSIS during field work in Jordan, "the child in Eastern Ghouta under opposition control yesterday is still the same child under government control tomorrow."

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Adapted from CSIS Policy Brief: Access for What? Elevating Civilian Protection and Quality Access for Humanitarian Action in Syria, March 2019



| PRINCIPLES OF | HUMANITARIAN ACTION

Impediments to humanitarian action underscore the importance of principled humanitarian delivery.

Principled assistance is understood to be neutral, impartial, independent, and of a humanitarian nature.⁴⁰ The principle of neutrality means that humanitarian actors should not take sides in hostilities. Impartiality means that assistance should be based on needs alone. Independence means that assistance should be autonomous from the political and military objectives of other actors. And the principle of humanity confers a purpose for humanitarian action to protect human life and dignity and work to alleviate human suffering.⁴¹

These principles—grounded in IHL and rooted in the foundational documents of the Red Cross/Red Crescent Movement—have been reinforced by 25 years of UN General Assembly Resolutions.⁴² They have also been incorporated into the guiding documents for many operational NGOs, the

UN Office for the Coordination of Humanitarian (OCHA), the UN High Commissioner for Refugees (UNHCR), and the Good Humanitarian Donorship initiative, which includes the United States and over 40 other donor governments.⁴³ While it remains the responsibility of parties to a conflict to ensure access for humanitarian aid, it is equally imperative that the humanitarian actors themselves abide by standards of principled aid.

Humanitarian principles are tools for action and are not sacrosanct. The principles are a means to gain and maintain access to affected populations.⁴⁴ In particular, the principles of neutrality and impartiality, often the most contested, are understood by principled aid agencies as vital to ensuring safety and access in complex and contested operational environments. Humanitarian organizations rely on reputation and perception for safety and acceptance. Abiding by the principles is a necessary measure to ensure that armed groups and affected populations trust and secure the presence of humanitarian actors.⁴⁵

Principled humanitarian action requires operational independence from the humanitarian donor. Humanitarian organizations that rely on state donor funding find this increasingly challenging, particularly when faced with growing regulatory

9

requirements, including vetting of partners and beneficiaries and compliance with legal restrictions on action associated with counterterrorism regulations, as this report discusses in Chapter Four.^{46,47} In some cases, states overtly use funding as a tool for a political and security agenda, creating even greater challenges for humanitarian agencies seeking to maintain operational independence.⁴⁸

Furthermore, humanitarian actors often rely on UN support in conflict settings, ranging from the use of UN facilities for transport or logistics to assistance with bureaucratic issues (e.g., visas). ⁴⁹ This can strain perceptions of neutrality and impartiality, as the United Nations as an institution has functions that are fundamentally political, in addition to its humanitarian and development mandates—a tension that can create security and operational risks for humanitarian actors. ⁵⁰ This tension is most evident when the UN is operating large-scale peacekeeping missions, such as in South Sudan or the Central African Republic; in such settings it is virtually impossible to reconcile the political objectives of the mission to support a particular state-building project with humanitarian and protection objectives, as the political actors may be the primary cause of harm to civilians under their control. ⁵¹

Humanitarian organizations and donors should establish clear protocols regarding their funding relationships in order to maintain consistency with humanitarian principles.⁵² Doing so may entail funding and operational challenges but could also serve to rebuild the reputational heft for humanitarian actors needed to overcome access denial. The Grand Bargain, a working agreement between the largest humanitarian donors and operational humanitarian agencies, offers a process and template for dialogue to achieve a standard that meets the monitoring and reporting needs of donors and the operational independence of humanitarian actors.⁵³

NIGERIA GARRISON TOWNS

In northeast Nigeria, a decade of conflict with the Boko Haram insurgency has displaced millions and limited humanitarian access to vulnerable populations. Armed groups and Nigerian security forces deliberately target civilians by burning and bombing villages, committing sexual and gender-based violence, and abducting and recruiting children. ⁵⁴ Protracted conflict has destroyed farmland and infrastructure, causing severe food insecurity and leaving more than 7 million people in need of humanitarian aid across the northeastern states of Borno, Adamawa, and Yobe. ⁵⁵ Despite growing need, more than 800,000 people remain inaccessible as humanitarian actors and beneficiaries alike are subjected to security regulations and disregard for humanitarian principles. ⁵⁶

Of great concern is the introduction of "garrison towns," formerly abandoned settlements now rebuilt, surrounded by trenches, and guarded by state military forces. The government has urged civilians to move into these garrison towns, promising protection and humanitarian assistance at the expense of freedom of mobility. In Pulka town, civilians are granted permission to collect firewood only within a few kilometers of the town and only with a military escort presence, while in Bama town people cannot leave.⁵⁷ These stringent regulations put civilians at increased risk of exploitation and abuse, particularly young women and girls. For civilians who move

there, garrison towns perpetuate a reliance on humanitarian aid. For those who do not or cannot move, the government has warned that they will be considered sympathizers of Boko Haram and denied protection.⁵⁸

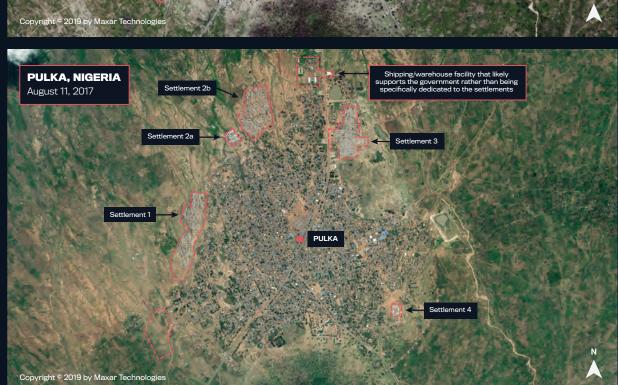
In so doing, the Nigerian government has prioritized counterinsurgency efforts over civilian protection and humanitarian principles. Efforts to prevent the diversion of aid by armed groups mean that international humanitarian organizations are not allowed to operate in areas outside of government control, leaving hundreds of thousands of civilians vulnerable to disease, hunger, and violence.59 Having endured years of hostage situations and abuse, civilians who do manage to flee areas contested by Boko Haram and other armed groups are subjected to screening processes that can take weeks, stigmatizing them and leaving them without proper resources. 60 Meanwhile, funding is primarily directed toward military resources; in one case, UN funding was used to pay for a military guard tower outside a camp, even as civilians within those camps and garrison towns face shortages of food, shelter, and other basic resources. 61

These policies have blurred the lines between civilian and military actors, effectively denying protection to thousands of civilians and violating principles of international humanitarian law.

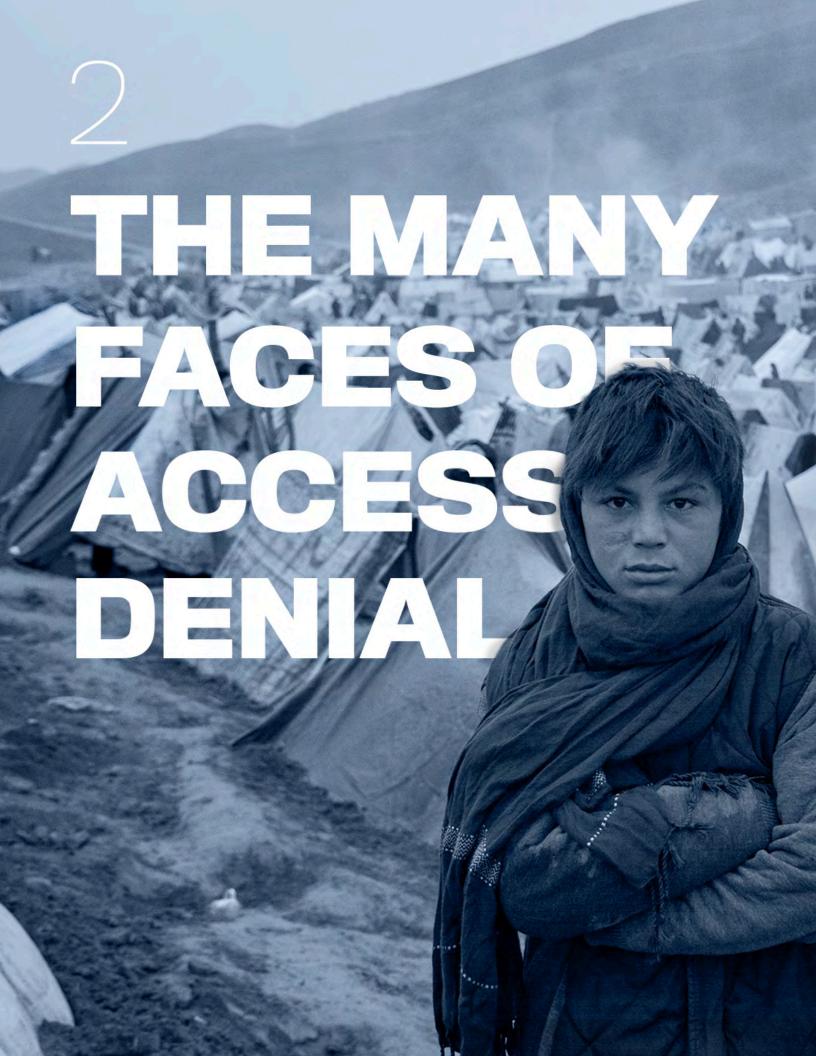
PULKA, NIGERIA

September 24, 2016

Settlement Development in Pulka, Nigeria 2016-2018







PREVIOUS PAGE

Bashir Ahamd, 14, in front of his tent in Feristan IDP settlement, Afghanistan.

Norwegian Refugee Council

espite extensive legal norms requiring the facilitation of access by states and armed groups, delivering aid in conflict environments can be exceedingly complex.⁶²

A 2010 report by then UN Secretary-General Ban Ki moon outlined three broad categories of access challenges: bureaucratic constraints, intensity of hostilities, and deliberate attacks on aid workers. Bureaucratic constraints include administrative challenges imposed by host government and armed groups, pernicious delays in processing administrative or logistical requests, outright denial of need for humanitarian presence, unlawful diversions of essential goods, and excessively restrictive donor policies that impede principled aid delivery. Security constraints include roadblocks and checkpoints, willful and sustained siege, escalations in armed clashes that force retreat and suspension of operations. Targeted attacks include deliberate violence directed at aid workers and facilities.

Vulnerable people face even greater security concerns and access challenges. Increasingly, armed groups and militaries limit movement or forcibly displace populations, purposefully placing them in harm's way and impeding their ability to seek out refuge and assistance. In many contexts, socio-cultural dynamics further complicate equal access for vulnerable people. Women and girls face special, acute vulnerabilities. Ethnic divisions within a population can also complicate access.

Access barriers manifest differently depending on the context. In Syria, the high intensity of the conflict, constantly shifting frontlines, regular use of siege tactics, and politicization of aid mean that sustained presence for humanitarian aid is exceedingly challenged and delivery of certain essential goods is routinely blocked, even if one-off deliveries sometimes occur. ⁶⁴ In Yemen, the extensive use of checkpoints throughout contested areas and the blockade of the Port of Hodeidah as a deliberate tactic to weaken supply chains has severely inhibited critical medical supplies and food from reaching civilians. ⁶⁵ And in Venezuela, government officials publicly minimized the need for humanitarian assistance and turned down aid at borders and ports. ⁶⁶

The following sections describe the various types of access constraints in greater detail.

SOUTH SUDAN HUMANITARIAN EXTORTION

Since the outbreak of violence in South Sudan in December 2013, over 50,000 people have been killed, and over 4 million people have been displaced.⁶⁷ In response since the end of 2013, the U.S. government has spent over \$4 billion in humanitarian assistance, including for refugees

in neighboring countries.68

Of the 78 counties in South Sudan, 18 had high-level access constraints (where access is extremely difficult or impossible) and 34 had medium-level access constraints (where it is regularly restricted), as of September 2018. 69 NGOs maintain some access to all parts of the country, but it is intermittent, costly in time and resources, and often comes at great physical risk to those delivering the aid.

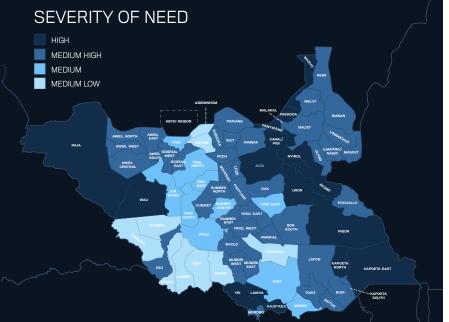
Myriad bureaucratic approval processes at the local, county, state, and national levels mean that NGOs sometimes spend months securing the necessary permissions to operate. These processes can be unpredictable and expensive, costly both in staff time spent navigating and in actual resources required to continue operation. One international NGO with fewer than 200 staff members in South Sudan estimates annual costs of \$350,000 just in administrative taxes and fees. These "fees" are paid to official and quasi-official entities; often there are additional direct or indirect payments to the more than 70 distinct armed groups estimated to be in operation across the country, without which access would likely be curtailed.

Infrastructure poses significant, albeit predictable, challenges. As much as 70 percent of the country is inaccessible by road during the rainy season, which typically lasts from June through September. In addition, security challenges in the region are profound; organizations have lost millions of dollars' worth of aid to looting, raids on compounds, theft, and other instances of criminal capture, not to mention the costs associated with regularly relocating or evacuating staff members because of any one of these factors. Additionally, over 100 aid workers have been killed since the most recent conflict erupted in 2013, with 142 security incidents reported between 2016 and 2018.^{72,73}

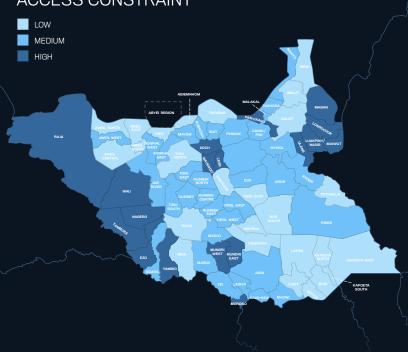
Due to bureaucratic, infrastructure, and security-related obstacles, humanitarian access in South Sudan continues to be among the most challenging and costly in the world to ensure. Some local organizations operate without official authorization, which puts them at risk for legal reprisal, while others are forced to pay bribes or be barred from the country altogether—all at the expense of donors, South Sudanese authorities, and most importantly, the 7 million South Sudanese who are in need.⁷⁴

Adapted from CSIS Policy Brief: Accessing South Sudan: Humanitarian Aid in a Time of Crisis November 27, 2018

SOUTH SUDAN







TOP MAP UN Office for Coordination of Humanitarian Affairs, "South Sudan: Humanitarian Access Severity Overview (September 2018)," September 14, 2018, https://reliefweb.int/report/south-sudan/south-sudan-humanitarian-access-severity-overview-september-2018.

BOTTOM MAP UN Office for Coordination of Humanitarian Affairs, 2018 Humanitarian Needs Overview (UNOCHA, 2018), https://reliefweb.int/sites/reliefweb.int/files/resources/South_Sudan_2018_Humanitarian_Needs_Overview.pdf.

BUREAUCRATIC CONSTRAINTS IN THE FIELD

"Humanitarian organizations in South Sudan are striving every day to save lives and alleviate suffering across this country. Yet, they continue to face obstacles and challenges which hamper their efforts. This must stop."

-Eugene Owusu, Humanitarian Coordinator for South Sudan

Bureaucratic impediments to humanitarian access greatly complicate the ability of people in need to reach basic assistance and of aid workers to deliver goods and services.76 While bureaucratic efforts to delay and deny assistance may not generate the same media coverage and outrage as security incidents, they are equally harmful to the health and safety of civilians and equally difficult to overcome. Cynically framed in the language of state sovereignty or administrative responsibility, bureaucratic tactics are often deliberately employed to punish populations or reward loyalty. In some cases, parties seek to exploit humanitarian action by levying excessive taxes and fees, reducing administrative allowances for organizations to import goods, requiring permits to move and delaying their issuance, and imposing onerous reporting and registering processes.77 In others, they seek to harm targeted communities by curbing the import of equipment and relief items.⁷⁸

In Ukraine, millions of people remain insecure due to ongoing hostilities between the government of Ukraine and Russian-backed rebels.79 Bureaucratic constraints imposed by all sides limit the ability of affected populations to cross checkpoints along the "contact line" separating Ukrainian forces and separatist rebels, impeding civilians from reaching desperately needed goods and services and increasing their risk of harm from violence, including landmines.80 One organization reported that



A picture taken on July 3, 2018, shows a woman dragging a sack of maize and sorghum dropped from air by a World Food Programme (WFP) plane in Jeich village in Ayod County, northern South Sudan. PATRICK MEINHARDT/AFP/Getty Images

equipment was confiscated, vulnerable national staff were followed and interrogated by the secret service of Ukraine, and that staff continue to be harassed with accusations in local media. Meanwhile, few organizations are permitted to work in the non-government controlled areas of Ukraine, limiting the capacity of humanitarian actors to respond to needs. 82

denial, state authorities may impose excessive costs for registration and visas. In South Sudan, the UN and NGOs regularly report excessive interference in administrative matters and the arbitrary or illegal attempts at taxation as significant obstacles to providing effective humanitarian response. And one particularly blatant example of humanitarian extortion is the outrageous attempted increase of visa fees to \$10,000 for humanitarian personnel charged by the government of South Sudan in 2017.

Cynically framed in the language of state sovereignty or administrative responsibility, bureaucratic tactics are often deliberately employed to punish populations or reward loyalty.

States often exploit the visa process to deny humanitarian access; the government of Myanmar regularly denied or delayed visas for international staff working in Rakhine state in late 2017, even as hundreds of thousands of Rohingya were attacked and forced from their homes.⁸³ Short of outright

MYANMAR ACCESS BLOCKED BY THE GOVERNMENT

In August 2017, a campaign of violence erupted in Rakhine State, Myanmar. Between August and December, widespread attacks by Myanmar's military (Tatmadaw) on Rohingya villages forced hundreds of thousands of people to flee into Bangladesh. 86 The government of Myanmar alleged the military activity was in response to armed attacks by militants associated with the Arakhan Rohingya Salvation Army. 87 However, prior to the outbreak of violence, numerous reports from the UN and credible NGOs warned of impending attacks on Rohingya communities, citing rhetoric from political leadership, reports of troop movements, and the history of violence in Rakhine between Rohingya, ethnic Rakhine, and the Tatmadaw. 88

As the violence unfolded, the government of Myanmar took the extreme step of preventing international humanitarian organizations from operating in the affected regions. 89,90 Myanmar has a history of denying the need for humanitarian assistance and preventing humanitarian organizations from operating. In the aftermath of Cyclone Nargis in 2008, the government initially denied the need for international assistance, only relenting as outcry intensified with allegations of crimes against humanity and the invocation of the Responsibility to Protect, 91,92

As violence intensified in 2017, the government applied similar tactics, denying the humanitarian crisis and need for international assistance, expelling aid workers already present and rejecting offers of assistance from international humanitarian organizations. While international outrage

mobilized to pressure the government of Myanmar to allow assistance for fleeing Rohingya civilians, the Russian and Chinese governments resisted political efforts at the United Nations urging the government to end its campaign and allow humanitarian agencies to operate.⁹³

The actions by the government of Myanmar exacerbated the security risks posed to international staff by the incitement campaigns of Burmese citizens. During the initial rounds of violence, the Office of Aung San Suu Kyi accused international organizations of assisting the extremist attacks, leading the UN to immediately withdraw its staff for credible fears of safety.⁹⁴

The government subsequently blocked access to Rakhine state for nearly all international actors, only allowing the Red Cross Movement to continue to operate, albeit with severe restrictions on movement. While the World Food Programme and certain NGOs were subsequently allowed to resume work, they too faced severe logistical and bureaucratic impediments, including restrictions on the movement of local and international staff, inhibiting the ability to carefully monitor and evaluate programs.⁹⁵

Ultimately, most NGOs working in Rakhine state prior to the onset of violence were permitted to return. However, the bureaucratic delays to access for humanitarian workers during the violence led to preventable and widespread loss of life and human suffering, leading the UN and other credible organizations to allege crimes against humanity had taken place.

Not all bureaucratic obstacles are malicious. One evolving challenge is when states apply administrative restrictions rooted in guidance and direction from international development agencies. ⁹⁶ Efforts to professionalize and standardize visa, taxation, and administrative functions, encouraged by international financial institutions and development programs, have on occasion led to unfortunate denials and delays in humanitarian access in emergencies.

Overcoming bureaucratic obstacles requires sustained bilateral and multilateral diplomacy. When donor states maintain diplomatic dialogues with those who impose bureaucratic obstacles, determined and sustained diplomatic engagement can at times reduce the obstacles to humanitarian access. Closer cooperation and communication between development and humanitarian agencies can serve to ensure competing interests do not lead to inadvertent access denial. Templates exist to provide administrative guidance to developing countries to facilitate emergency assistance in natural disasters. These templates for facilitating emergency response can also be utilized in the admittedly more complicated scenarios of armed conflict.

As access challenges increase, budgets are strained, particularly challenging the operational capacity of small local organizations.

For security, administrative, and principled reasons, humanitarian organizations seek the consent of all parties, including states and relevant authorities; however, the imposition of bureaucratic constraints challenges humanitarian budgets and principles. As access challenges increase, budgets are strained, particularly challenging the operational capacity of small local organizations. This increases the costs for donor governments due to delays and inefficiencies. Moreover, humanitarian actors face political and legal risks if they are compelled to engage for administrative and regulatory purposes with states or groups who are sanctioned or listed as terrorist groups by the United Nations and donor governments. 98 This creates further financial constraints, as organizations dedicate substantial time and staff resources toward compliance with regularly evolving reporting regulations, reducing funds available for operations.

This intersection of donor and host bureaucratic constraints manifests most acutely in areas where counterterrorism agendas and humanitarian action coincide.

LEGAL AND POLICY CONSTRAINTS OF SANCTIONS REGIMES

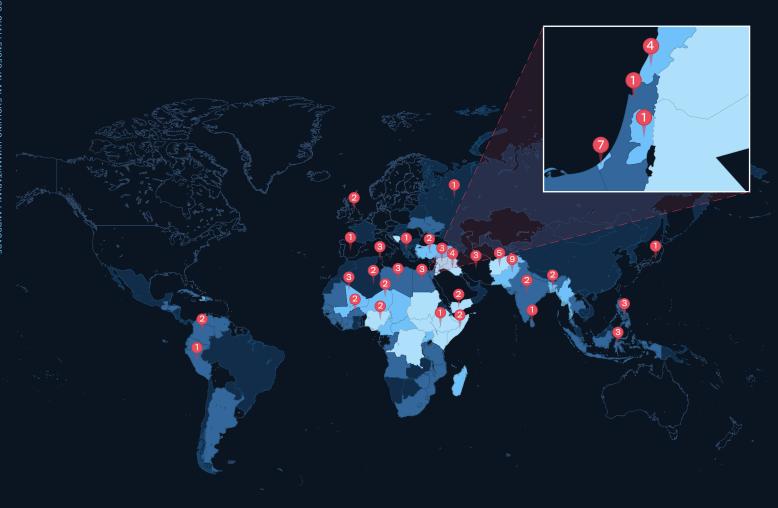
Legal and policy constraints to humanitarian access are also put in place by donor countries and institutions. Donor governments and the United Nations have created counterterrorism statutes and sanctions regimes—designed to prevent the spread of terrorist activity and terrorist organizations—that have the side effect of imposing restrictive policies on humanitarian action. The impact of these terrorist designations and counterterrorism sanctions regimes on humanitarian organizations has been significant because they potentially criminalize actions fundamental to humanitarian assistance. This creates a situation where domestic legal frameworks crafted in response to legitimate national security concerns are in tension with state obligations under IHL.⁹⁹

This tension is particularly acute in the United States, which has widely used sanctions as a counterterrorism tool and is one of the world's largest providers of humanitarian assistance.

In the aftermath of the attacks of September 11, 2001, Congress enacted a strict legal regime regarding prohibitions on the provision of material support to terrorism. This was done through changes made by the USA PATRIOT Act, which broadened the scope of existing prohibitions in law to include broad categories of activities, including training and advice, even if not related to terrorist activity. 101,102

Additionally, to combat financial flows to terrorist groups, President Bush issued Executive Order (EO) 13224, which declared a national emergency and gave the president the authority to designate and freeze assets of individuals and entities associated with terrorism and prohibit the provision of material support to such groups. 103 Among its provisions, EO 13224 overrides an exemption that existed in the International Emergency and Economic Powers Act allowing donations of food and medicine. 104 This EO is administered by the Treasury Department Office of Foreign Assets Control (OFAC) and by the Department of State, who have the authority under the EO to designate Specially Designated Global Terrorists (SDGT)-individuals or groups with whom commerce and support is prohibited. Once designated, individuals and entities have assets frozen and travel restricted. Counterterrorism sanctions provide a primary legal basis for prosecution in U.S. courts and underpin the U.S. ability to implement UN Security Council resolutions into domestic law.

U.S. SPENDING IN 2018 ON HUMANITARIAN ASSISTANCE AND PRESENCE OF U.S. DESIGNATED FOREIGN TERRORIST ORGANIZATIONS





Some donor contract clauses also create a burdensome standard for humanitarian actors. For example, USAID's anti-terrorism clause requires grantees to certify that in 10 years of prior activity no support has been provided to groups or individuals listed as SDGTs, even inadvertently.¹⁰⁵ Similar clauses require organizations to vet recipients of assistance, even prohibiting provision of aid to those who may have been forcibly kidnapped by sanctioned armed groups.¹⁰⁶ Troublingly, there is a new trend of private citizens bringing claims against humanitarian organizations in U.S. courts under the False Claims Act based on these certifications, even for benign activities (such as peacebuilding workshops), adding to the chilling effect and legal ramifications for humanitarian actors working in complex environments.^{107,108}

U.S. counterterrorism and related economic sanctions regimes are designed to prohibit knowing and intentional support to terrorist organizations. However, these same statutes put humanitarian agencies working in areas with SDGTs at risk for civil prosecution, even for unintentional diversion.

There are at least two core problems. The scope of the definition of material support to designated groups is incredibly broad and includes, for example, training in the laws of war or for conflict resolution efforts. Given the broad scope, and absent clear legal guidance, any infraction is potentially subject to legal action. ¹⁰⁹ Second, while some organizations have argued for exemption provisions for humanitarian action in keeping with international humanitarian law, these have not been forthcoming.

The breadth of the legal and administrative regimes creates substantial legal and reputational risk for non-government partners of major donors working in SDGT-affected areas. While mere contact with designated groups is not prohibited, confusion and risk aversion among humanitarian agency personnel means they may shy away from conducting even foundational activities such as access negotiations for fear of being liable and prosecuted for direct support of proscribed groups. Ironically, this has the impact of increasing the likelihood of diversion, as negotiation and development of Memoranda of Understanding with armed groups is often the most effective means to ensure aid is not diverted or misused.

Numerous humanitarian agencies have highlighted the challenges of working in areas with FTOs or SDGTs present. The problem is particularly acute in Northern Syria, where some agencies simply choose not to work despite high levels of need, and Northeastern Nigeria, where aid agencies have been asked to vet program beneficiaries to ensure they do not have affiliations with designated terrorist groups. In Nigeria, this could be based on merely living in an area with

the presence of Boko Haram and other designated armed actors, even without having any meaningful association.¹¹⁰

The situation is aggravated by the dearth of serious high-level discussions between aid organizations and the U.S. government to identify specific access issues and, once identified, work through solutions that would allow enforcement of the counterterrorism or other economic sanctions while permitting NGOs access for the purpose of delivering humanitarian assistance to non-designated actors. Only in very rare cases have implementing partners turned down funding with these requirements included, with the United Nations Children's Fund (UNICEF) in Nigeria being a prominent example. More often, despite strong reservations, the humanitarian imperative compels humanitarian actors to accept donor requirements despite the legal risks and compliance hurdles they entail.

Taken together, these multiple elements of law, regulation, and certification have created a chilling effect on humanitarian organizations, effectively limiting their operational footprint and compelling them to engage in humanitarian action only in areas understood to be safe from legal risk. This runs at cross-purposes with the principle that assistance be based on need, or it leaves vulnerable populations without lifesaving support.

RISK AVERSE BANKS

Another operational challenge comes from the banking sector.¹¹⁴ Many multinational banks are reluctant to provide financial services to humanitarian organizations working in sensitive areas, such as Somalia, Syria, and the Occupied Palestinian Territories, for fear of inadvertently running afoul of legal restrictions and sanctions regimes.115 For most financial institutions, the small value of the business is not worth the risk of a compliance violation.¹¹⁶ Credible and professional organizations with Muslim affiliations, such as Islamic Relief USA and the Zakat Foundation, are vulnerable to financial institutions being simply unwilling to process legitimate, critical transfers of funds. 117 This has led humanitarian actors working with donor funding to revert to riskier methods of money transfer that carry higher potential for diversion, loss, or corruption, making tracking financial transactions more complicated and opaque.118

A 2018 Government Accountability Report (GAO) confirmed that bank "de-risking" presents a substantial challenge to recipients of USAID and State Department funding. ¹¹⁹ The report noted the complexity of financial structures supporting humanitarian action and found that most partners selected for their study working in high-risk contexts experienced challenges in securing financial services. As a result, they are

obliged to reduce or suspend their programming. Notably, GAO found that the Department of Treasury and the Department of Homeland Security have engaged in multiple processes to help address banking challenges faced by humanitarian actors. By contrast, according to GAO, USAID has not effectively collected information from partners on the impacts of bank de-risking, nor communicated with partners and other federal agencies about the extent of the problem.

Bank de-risking impacts vulnerable populations directly, as risk-averse financial institutions reduce the services available. This particularly affects the use of remittances. In Somalia, this presents an acute challenge, as estimates suggest that remittances account for 25 to 45 percent of GDP.¹²⁰

There are, of course, legitimate national security and counterterrorism purposes for these complex legal regimes. Even as humanitarian agencies welcome U.S. support in tackling intentional and willful fraud and corruption, strict and aggressive enforcement of these policies run at cross-purposes with other U.S. priorities by reducing humanitarian agencies' willingness to work in complex settings, creating conditions that make it harder to prevent and monitor the diversion of funds.¹²¹

| JUMPING THE | REGULATORY HURDLES

The regulatory "obstacle course" humanitarian actors must navigate is exacerbated by UN sanctions regimes that create additional legal obligations. ¹²² More troublingly, many UN sanctions and regulatory frameworks are incorporated into domestic law by states whose enforcement protocols are often stricter and less compliant with humanitarian principles than those of the United States, putting local humanitarian aid workers at risk of criminal prosecution in countries with significant humanitarian operations. ¹²³

There are multiple ways to ensure humanitarian action does not violate the prohibitions imposed by states and the UN in sanctions programs. Exemption clauses establishing at the onset that humanitarian activities are not covered by the sanctions' scope are considered by humanitarian organizations to be the most effective way to protect humanitarian operations. ¹²⁴ At the United Nations, language inserted in UNSCR 2462 adopted in March 2019 requires states to develop legal restrictions in a manner consistent with their responsibilities under IHL, which represents a minimum standard of language that can safeguard humanitarian action. ¹²⁵ In the United States, humanitarian exemptions exist in some broad country-based sanctions programs but not for sanctions programs targeted at terrorist organizations.

Granting specific licenses to operate is another option for ensuring that humanitarian activities can proceed. In the United States, this authority falls under OFAC, which enforces sanctions programs. OFAC licenses authorize recipients "to engage in a transaction that would otherwise be prohibited."126 The licensing model, while designed to be helpful, has proven to be time consuming, costly, and confusing. Navigating the license process often outlives the emergency need for the license. Licenses are generally specific to each country with sanctions programs, making them onerous to obtain when multiple donors are involved.127 Licensing is a model that governments prefer because constraints are dealt with on a case-by-case basis and sanctions regimes are not undermined. However, licensing does not remedy financial organizations' desire to "de-risk"; banks remain reluctant to provide financial services for fear of violating sanctions programs, even in cases where the humanitarian organization has been licensed to work.128

Finally, there is limited public information around the approval process for licenses, including timelines for a response and the criteria used to make a determination on granting or rejecting a license. ¹²⁹ OFAC guidance describes a process for granting licenses that includes consultations with other federal agencies, including the Department of State and Department of Commerce. In the case of programs in the West Bank and Gaza, licenses have been denied due to "lack of foreign policy guidance from Department of State"—suggesting that one of the challenges is inaction by senior officials due to perceptions of political risk—and in securing timely agreement between the Departments of State and Treasury on license applications. ¹³⁰

One challenge humanitarian actors face in engaging governments and the UN on the impact of sanctions and counterterrorism restrictions is documenting the heavy costs of these policies. Whenever humanitarian actors choose not to engage in lifesaving programs for fear of inadvertently running afoul of legal restrictions, that omission carries a price, but providing empirical data is innately difficult.¹³¹ Somalia represents a compelling recent example where U.S.-funded assistance had potential to save lives and was impeded by restrictions that inhibited a rapid and robust response, with dire, irrefutable human consequences.

I THE SOMALIA FAMINE

In July 2011, the UN declared a famine in Somalia. At the time, much of South and Central Somalia was controlled by al-Shabaab, a terrorist network that has been under OFAC sanctions since 2008.¹³² While there was substantial early warning of famine conditions, including by USAID's Famine

Early Warning System Network in September 2010, U.S.-funded humanitarian assistance to areas controlled by al-Shabaab was restricted due to economic sanctions imposed based on concerns about extortion and taxation by al-Shabaab. Subsequent to the OFAC designation, and as a result of Al-Shabab's actions, U.S. assistance to areas controlled by al-Shabaab dropped nearly 90 percent, leaving much of the population that had been receiving U.S. assistance at risk of starvation.

Even as bipartisan Congressional calls for action increased, it wasn't until late 2011 that the State Department announced support for limited humanitarian action and OFAC issued a narrow license to USAID grantees and contractors. This came subsequent to a UN Security Resolution that exempted impartial humanitarian action from existing UN sanctions. Even then, official statements confused humanitarian workers, as State Department and OFAC guidance failed to provide necessary assurances that good faith humanitarian action was protected, particularly with respect to material support provisions that would fall under the purview of the Department of Justice. 137

Ultimately over 260,000 civilians died from famine in Somalia. The cause of these deaths is complex. Al-Shabaab bears responsibility for the humanitarian impacts of the violence and conflict that led to human suffering, as well as for their restrictions on access for foreign aid agencies, attacks on aid workers, and expulsion of aid organizations. Still, the tension between U.S. humanitarian and counterterrorism goals clearly delayed a U.S. humanitarian response.

The challenge now is to capture the lesson of Somalia so policymakers can act on a timelier basis in future emergencies. This entails establishing regular dialogue between humanitarian organizations and U.S. officials across agencies, including the national security establishment, developing trust building mechanisms, and establishing more effective and expeditious protocols for the consideration of licenses and exemptions, as well as on donor clauses and restrictions.

FINDING THE RIGHT BALANCE

Humanitarian organizations work in areas affected by non-state armed groups and designated foreign terrorist organizations committing gross violations of international law and causing extreme human suffering. Humanitarian actors understand the need to navigate donor policy. Many see convergence between humanitarian action and counterterrorism efforts and support efforts to reduce violent actors' financial and political sway.¹³⁸ Establishing an ongoing dialogue between humanitarian actors and government officials working on sanctions and counter-

terrorism policy would help improve mutual understanding of the operational realities of humanitarian work and the processes associated with sanctions enforcement, minimizing the unintended negative consequences. Furthermore, U.S. government interagency coordination processes should account for humanitarian concerns, ensuring that decisions on counterterrorism, sanctions, and any related policies are consistent across the government and consider the actual and potential humanitarian impact of such policies.

INSECURITY AS AN ACCESS CONSTRAINT: SECURITY, PROTECTION, AND INFRASTRUCTURE

"Today, I live with the heavy conscience that one year ago we probably made a mistake giving the UN the coordinates of our center. It is clear by now that the very institutions that are supposed to protect us, civilians, have failed us."

-Rashed al-Ahmad, pharmacist from Kurnaz, Syria¹³⁹

In protracted conflicts, the security and protection of civilians and of local and international humanitarian aid workers constitute a core access challenge. Wiolence against aid workers and infrastructure poses serious physical and psychological risks, restricts movement, and limits access to critical infrastructure like hospitals and schools, leading to undue loss of life and suffering. Threats impacting access include direct attacks from armed groups, landmines and unexploded ordnance, blockades, kidnapping and arbitrary detention, and the risk of sexual exploitation and abuse of vulnerable people, especially women and girls. With conflicts involving more armed groups with loose organizational structures and taking place in urban environments where combatants

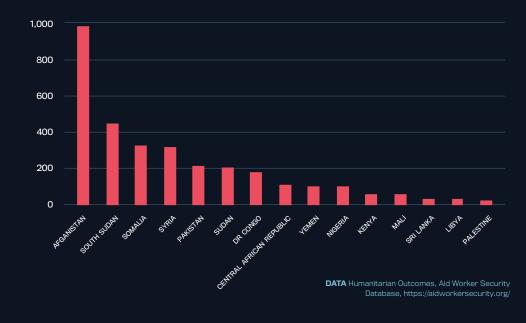
and non-combatants are intermixed, addressing these physical and psychological threats for civilians must be prioritized for effective humanitarian delivery.142

Affected populations and aid workers are non-combatants in a conflict and therefore protected under international humanitarian law (see Chapter 1: Legal Obligations).143 Despite legal protection, state and non-state actors continue to deliberately disregard their obligations and put civilian populations at risk. In Syria, Bashar Al-Assad's

government has deliberately targeted civilians, limited movement of populations, and labeled aid workers operating outside of the Syrian government's legal framework—that is, anyone in opposition-controlled territory—as "terrorists." 144 Rukban refugee camp, located along the Syria-Jordan border and home to roughly 30,000 displaced persons, has received inadequate assistance in part due to the politicization of security coordination between relevant parties in the area. 145 Despite the camp's unsustainable conditions, many people are choosing to stay due to the perceived security risks to themselves and their families if they return to government-held territory.¹⁴⁶

Globally, aid workers are targeted by state and non-state actors alike. Between 2014 and 2017, there were more than 660 attacks on aid workers worldwide, 90 percent of which targeted local aid workers. 147 Aid worker fatalities increased by 30 percent in 2017 compared to 2016, with Syria, Afghanistan, South Sudan, and the Central African Republic dubiously distinguished as the most dangerous places for aid workers to engage in humanitarian activities.148 The duty to provide security and protection for their staff puts financial pressure on humanitarian organizations and donor governments and threatens their perceived neutrality in a conflict. For example, an organization that must use an armed escort to travel to a contested area may give the perception it is a proxy of one side, which can create security concerns and limit future access. One humanitarian organization reported that at the height of its operations, moving between the Turkish border and Aleppo city, trucks of humanitarian aid would cross up to 12 to15 checkpoints and at least three changing lines of

COUNTRIES WITH THE GREATEST TOTAL NUMBER OF AID WORKERS AFFECTED, 2008-2018



control. Trucks delivering potable water or fuel for generators and pumps to IDP camps in North Syria must cross through Hay'at Tahrir al-Sham, Syrian Salvation Government, and al Zinke Movement lines of control. These movements were only possible when understood and perceived as neutral and delivering to civilian facilities.149

Constraints on humanitarian access through insecurity and physical destruction of infrastructure is a tragic reality for populations and aid workers in protracted conflicts.

AFGHANISTAN INSECURITY AND ISOLATION

In 2019, Afghanistan was ranked ninth on the Fragile States Index. ¹⁵⁰ Ongoing armed conflict limits access to humanitarian assistance, even as the humanitarian need has doubled in recent years. Now, 6.3 million people currently require assistance, most notably in southern, southeastern, and northern provinces. ¹⁵¹ Security concerns continue to be the primary driver of humanitarian need in the country, while the proliferation of non-state actors, attacks on critical infrastructure, and presence of unexploded ordnance continue to limit humanitarian initiatives.

Roughly two-thirds of Afghans live in areas impacted by armed conflict, where it is difficult for aid organizations to operate. 152 Armed groups in Afghanistan levy taxes at road checkpoints, adding costly, time-consuming burdens for aid organizations who must negotiate their way into hard-to-reach areas. Due to insecurity and poor infrastructure, many aid organizations have turned to air travel to deliver assistance; however, this is expensive and requires specialized skilled staff. The high level of violence and trauma has also increased the need for psychosocial support, yet almost three-quarters of Afghans in areas hard-to-reach reported having no access to psychosocial support in their communities, and those who did have access said the support was not adequate to meet needs. 153

In May 2019, the Taliban attacked the compound of Counterpart International in Kabul, causing the deaths of both Afghan and international staff members, as well as staff from CARE, another international organization based in Kabul. 154 And in July 2019, the Taliban force closed 42 health clinics operated by the Swedish Committee for Afghanistan in the central and eastern regions of Afghanistan. 155 These attacks and closures caused a ripple effect among aid organizations, causing internal assessment over security for operations in the region in conjunction with their duty of care towards staff.

In addition to non-state actors, U.S. and Afghan state forces have killed civilians and humanitarian workers during aerial bombing campaigns. ¹⁵⁶ In one terrible incident, the October 2015 airstrike bombing of the Médecins Sans Frontieres (MSF) hospital in Kunduz killed at least 42 people and injured 30. The United States investigated the matter and found it to be the result of a series of errors made on a mission to target Taliban fighters in the area. In a public apology to MSF, U.S. Special Operations Command detailed the results of the investigation, calling what happened a "tragic mistake."

Despite deconfliction processes and efforts to build awareness of the presence of non-governmental organizations, the risks of operating in areas of conflict remain high. Civilian and aid worker casualties cause aid agencies to withdraw from frontline operations, limiting the amount of aid that can be delivered and tying up resources to comply with due diligence requirements to ensure the safety of their staff.

Security concerns and persistent violence also limit civilians' freedom of movement, impacting their ability to reach assistance offered in "canton" structures. In 2018, more than 10,000 Afghan civilians were killed or injured by violence, including suicide bombings that targeted critical infrastructure like hospitals, schools and universities, and election polling stations. ¹⁵⁷ In 2017, landmines and unexploded ordnance have killed more people in Afghanistan than in any other place in the world. That year, antipersonnel and improvised landmines killed 2,300 people, many of whom were children. ¹⁵⁸ Demining efforts require advanced equipment, skilled operators, and knowledge of the location of mined areas. Most respondents in rural areas reported that these areas are often unmarked, and there is a lack of Mine Risk Education. ¹⁵⁹

Vulnerability of local civilian populations increases as infrastructure connecting communities and cities deteriorates. Because roads, highways, and bridges are critical to assistance delivery, they are at the core of access; likewise, they may be the target of political or strategic control, whether through blockade or checkpoint. In Yemen, armed groups use checkpoints as a means of security and control and as a point of taxation for financial gain. Access constraints in Yemen have become so extreme that it can take four hours to travel a route that would normally take 15 minutes. Limiting people's movement or destroying means for mobility deepens their isolation and exacerbates underlying causes of conflict, such as economic and political fragility.

Another limit on civilian access to aid is the deliberate attacking of hospitals and schools. Through deconfliction efforts, militaries and local actors seek to provide hospitals' and schools' coordinates and render them off limits to military action, yet in many areas of protracted conflict, attacks on civilian infrastructure are on the rise. ¹⁶² In Afghanistan, UNICEF recorded a three-fold increase in the number of attacks on schools between 2017 and 2018. ¹⁶³ In Idlib, Syria, officials recorded 19 attacks on hospitals in May 2019 alone. ¹⁶⁴ Now, instead of supporting deconfliction efforts, some medical staff in Idlib no longer share coordinates with the UN and other international humanitarian providers out of fear that they will be targeted by Russian or Syrian forces. ¹⁶⁵

Landmines and other explosive remnants of war impose another long-term constraint on communities' ability to reach aid. Despite projects like the UN Mine Action Service and international conventions that prohibit the use of antipersonnel landmines, thousands of people are killed and maimed by landmines every year. 166 Landmines limit aid workers' ability to enter isolated communities and make it dangerous for those in affected areas to access the assistance they need. Local militaries and armed groups use landmines to channel movement through checkpoints in order to leverage bribes or block movement entirely. Afghanistan has the highest casualties from explosive remnants of war, with over 1,400 killed or injured in 2018. Syria and Ukraine have also seen high casualty rates and similarly lack the resources to confront the problem.¹⁶⁷ The Islamic State was particularly ruthless at using mines and improvised explosive devices in their defense of Mosul in Iraq and Raqqa in Syria. 168 The lingering danger is making the task of rebuilding those cities and restoring civilian access to homes, schools, and hospitals a task of decades. 169

HUMANITARIAN ACCESS AND VULNERABLE POPULATIONS

"My life has been changed, the Houthis and the food. Before, I had everything to eat, everything. I was happy, at ease. Now you can't even have one cake."

-Ahmed Abdu, 9-year-old from A'unqba, Yemen¹⁷⁰

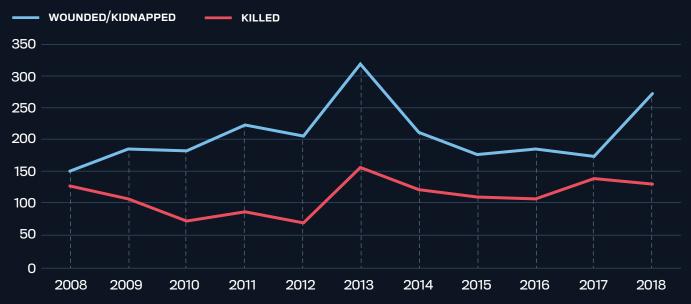
Conflicts exacerbate existing inequalities, increasing access challenges for vulnerable groups such as persons with disabilities, LGBTQ individuals, women and girls, and the elderly. Vulnerable groups are more likely to face violence and restricted movement during conflict, even as their specific needs go unaddressed in humanitarian response efforts.

In times of conflict, women and girls are at increased risk for sexual violence, and persons with disabilities and other vulnerable groups are often the subject of targeted killings and used as human shields.¹⁷² The increased risk of violence presents access challenges, as vulnerable groups face fears of movement, inhibiting their capacity to access assistance and protection.

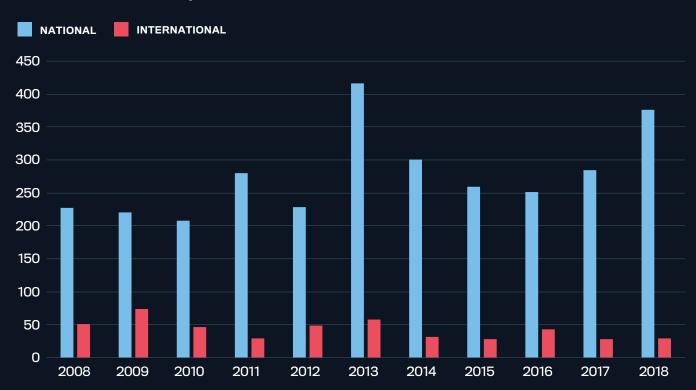
Protection against sexual and gender-based violence is acutely underfunded: One in five internally displaced women or female refugees living in a humanitarian crisis has experienced sexual violence, yet less than one percent of global humanitarian funding is dedicated toward sexual and gender based violence protection and response. ¹⁷³ Providing sexual and reproductive health support has become more difficult due to U.S. restrictions on funding for comprehensive sexual and reproductive health services. ¹⁷⁴

Additionally, 75 percent of persons with disabilities report they do not have access to basic assistance in humanitarian crises. ¹⁷⁵ In Jadimura camp in Bangladesh, 56 percent of respondents in a survey of persons with disabilities reported difficulties in accessing latrines. ¹⁷⁶ Vulnerable groups are

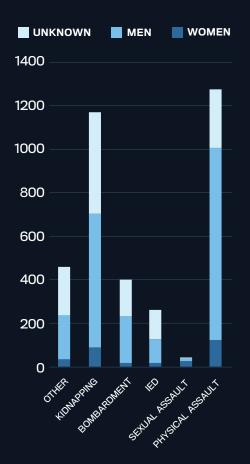
AID WORKERS KILLED, WOUNDED, OR KIDNAPPED, 2008-2018



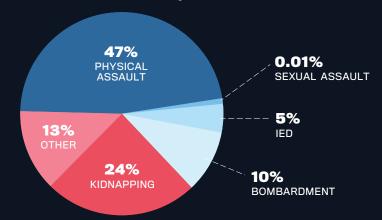
AID WORKERS KILLED, WOUNDED, OR KIDNAPPED, 2008-2018



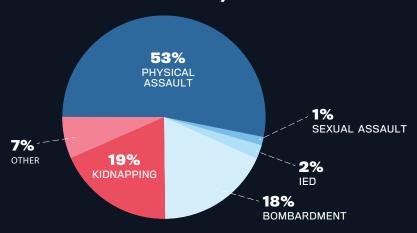
TYPES OF ATTACKS ON AID WORKERS BY GENDER, 2008-2018



TYPES OF ATTACKS ON AID WORKERS, 2008-2018



TYPES OF ATTACKS ON AID WORKERS, 2018



AID WORKERS KILLED, WOUNDED, OR KIDNAPPED BY GENDER, 2008-2018



less likely to have access to education and the internet, further inhibiting their ability to acquire lifesaving and life-affirming information.

Identifying needs is the first step to adequately assisting vulnerable groups during humanitarian crises but can be challenging. Whether a population's needs are addressed in humanitarian response efforts is not adequately measured in frameworks that analyze humanitarian access constraints. For example, OCHA's Access Monitoring and Reporting Framework (AMRF) and the ACAPS Humanitarian Access report do not effectively account for the differing needs of specific vulnerable populations. To Consequently, some NGOs have created tools to help identify the needs of vulnerable populations, such as CARE's Rapid Gender Analysis. Such tools are far more useful if operational agencies are able to conduct independent assessments free of interference from state and non-state actors.

Programs addressing the needs of vulnerable populations regularly face restrictions. Humanitarian programs involving child and sexual- and gender-based violence protection in Syria, for instance, "are often viewed with suspicion" by armed groups and other actors that resist entry for humanitarian workers because of existing discrimination and stigma against marginalized populations.¹⁷⁹

Female-led humanitarian groups also face unique access constraints. The 2016 World Humanitarian Summit shifted global understanding of women as victims in humanitarian crises to women as first responders, committing stakeholders to empowering women in response efforts. Despite this shift, women-led humanitarian groups are dramatically underfunded, and men still make up the majority of humanitarian staff and management, perpetuating gender-based access challenges. 181

Local women's groups may face particular risks or challenges when negotiating access, but they also bring considerable advantage, which is why humanitarian workers have consistently argued the need for female humanitarians to access women affected by conflict. A population's social and gender norms may require women to speak to women; and in any case, women affected by crises may be more comfortable speaking to other women about their needs. Furthermore, there is anecdotal evidence that when women are included in or make up most frontline delivery staff, there is a reduction in both sexual exploitation and the abuse of beneficiaries. 183

YEMEN MANY ACTORS, MINIMAL ACCESS

In Yemen, 24 million people-almost 80 percent of the population-are in dire need of humanitarian assistance. 184 State parties and multiple armed groups are blocking aid, despite overwhelming public outcry and UN Security Council Resolutions demanding immediate and unfettered access. Extreme hunger affects 8.4 million people, and it is estimated that 3.25 million Yemini women are facing health and protection risks. 185,186

UN Resolutions have called for the removal of "bureaucratic impediments to flows of commercial and humanitarian supplies," yet access remains constrained.187 Bureaucratic and administrative interference from legitimate and de facto authorities is severely restricting operational capacity and access, as well as infringing on a principled humanitarian response. The multiplicity of armed actors and local stakeholders requires humanitarian organizations to establish good relations with an increasingly diverse array of armed and local groups. Corruption, poor infrastructure, and uneven local capacity all prevent humanitarian assistance from effectively and efficiently reaching vulnerable populations. The International Rescue Committee, for instance, has reported having to pass through more than 70 checkpoints in Yemen on the 300-mile trip from Aden to Sana'a, constantly having to negotiate access and navigate repeated inspections.¹⁸⁸ Similarly, the Norwegian Refugee Council reports that what was once a 15-minute drive through Taiz now takes more than four hours because of all the checkpoints the organization must navigate. 189 These security and bureaucratic constraints increase the cost of food in the markets, limit humanitarian access, and painfully extend the time it takes to reach vulnerable populations.

Local barriers to humanitarian assistance also arise due to the instrumentalization of aid in Yemen, which poses significant challenges for quality humanitarian access. The Saudi-led

coalition (SLC) pledged to contribute to the UN's 2018 Yemen Humanitarian Response Plan, promising \$1.5 billion in new funding, yet the SLC continues to try to prevent trade from entering through the Houthi-controlled port of Hodeidah.¹⁹⁰ Furthermore, the vast majority of pledged funding has yet to be disbursed.¹⁹¹

Houthi militias use aid for their own political advantage as well, blocking assistance from reaching affected populations and threatening violence against humanitarian organizations that work within government-controlled areas. In June 2019, the World Food Programme initiated a phased suspension of general food distributions in Sanaa because of the "obstructive and uncooperative role of some of the Houthi leaders in areas under their control." Expedited delivery is nearly impossible, yet the needs of the population remain immediate.

For women and girls in Yemen, the humanitarian crisis has exacerbated existing inequalities. Women and girls often receive less food, access to cash assistance, information, healthcare, and education in humanitarian response efforts and face an increased risk of exposure to violence. Other difficulties include meeting the needs of different populations, as discrimination and stigma prevent vulnerable groups from accessing appropriate assistance.

Yet, vulnerable groups are also humanitarian leaders, working on the frontline of response efforts. According to the UN Resident Coordinator and Humanitarian Coordinator Lise Grande, women make up more than 80 percent of first responders in Yemen. 193 In Yemen, women-led humanitarian groups are often overlooked when it comes to funding and face more resistance in their efforts to respond to crises than their male counterparts. Engaging and supporting these groups may prove critical to unblocking access and reaching vulnerable populations with critically needed assistance.



Road checkpoints in Yemen continue to be a critical access constraint. Blockage between Taiz and areas where aid is stored forces aid workers to take long detours through difficult terrain in order to deliver assistance.

Checkpoints in Taiz, Yemen 2019





MOST SEVERE CONFLICT & ACCESS CONSTRAINTS BY COUNTRY

ACCESS CONSTRAINTS (0-5)CONFLICT SEVERITY (0-5)



SOURCE ACAPS, CrisisInSight, Interactive Data, https://www.acaps.org/countries.

APPEAL FUNDING GAP, 2009-2018



SOURCE UN Office for Coordination of Humanitarian Affairs, "Appeal Funding Gap, 2008-2018," Global

33

UNPRECEDENTED NEEDS, GROWING SHORTFALLS

Access denial in humanitarian emergencies takes many forms, evolves and changes in its manifestations, poses a grave threat to the safety and wellbeing of populations in need, erodes humanitarian norms, and strikes at the very outcomes sought by humanitarian agencies and donor governments. This crisis is compounded by the steep, unabated increase in humanitarian demands and a growing gap in international financial commitments.

While the overall number of armed conflicts globally fluctuates, the severity and length of ongoing conflicts have risen. 194 In the last four years, the average length of crises with a UN-coordinated response increased from 5.2 years to 9.3 years. 195 Conflicts today last twice as long as they did in 1990. 196 In addition, the percentage of violent and highly violent conflicts rose from 53 percent to 58 percent between 2014 to 2017. 197 This spike in violence has led to record levels of displacement, with 13.6 million people newly displaced in 2018. 198,199

Increasing flexible, multiyear funding options would enable operational agencies to respond based on impartial needs assessments. This can help ensure the funding that is available is utilized where need is greatest and where access allows.

The international community is spending more money on humanitarian assistance than ever before, yet the need is growing even faster. In 2018, the total funding received for UN-coordinated appeals was \$15.2 billion—a record high—with one-third coming from the United States.²⁰⁰ However, 2018 also saw a nearly \$10 billion volume shortfall against UN appeal requirements—the largest ever. The disparity between funding needs and funding received is driven by

the changing nature of crises, with OCHA estimating nearly 132 million people will depend on humanitarian aid in 2019. Most of this aid is dedicated to civilians in regions struggling with protracted conflicts.

Increasing flexible, multi-year funding options would enable operational agencies to respond based on impartial needs assessments. This can help ensure the funding that is available is utilized where need is greatest and where access allows.²⁰²

Denial, delay, and diversion of humanitarian aid leads to substantial wasted time for humanitarian organizations who grapple with bureaucratic impediments, sit stuck at checkpoints, or are compelled to take circuitous routes to avoid insecure areas. This adds up to dollars and staff capacity directed at navigating access constraints instead of being directed to meeting the needs of the most vulnerable.



PREVIOUS PAGE

Rohingya migrants wait at a relief center at the Balukhali refugee camp at Cox's Bazar, Bangladesh on November 30, 2017.

ED JONES/AFP/Getty Images



s humanitarian actors and donors have encountered access challenges, various efforts have been made to overcome obstacles to access.

These include training essential skills such as frontline negotiations and humanitarian diplomacy, tracking and monitoring of access constraints, incorporation of technological tools, adopting innovations in humanitarian practice born out of global agreements, expanding localization efforts, and furthering engagement with the private sector.

STRONG, SUSTAINED HUMANITARIAN DIPLOMACY AT EVERY LEVEL

When access is challenged, humanitarian actors point to the need for improved humanitarian diplomacy, generally understood as a way of negotiating access and protection for humanitarian action, especially at the local community level at the frontline. ²⁰³ Humanitarian diplomacy differs from official or "conventional" diplomacy in several ways. Conventional diplomacy advocates on behalf of one actor, attempts to reach compromises over political goals, and is usually conducted by appointed diplomatic professionals. ²⁰⁴ Humanitarian diplomacy advocates for the needs of vulnerable populations and for commitment to humanitarian principles and is conducted by a wide range of actors, from UN officials to diplomatic professionals to members of an affected community. ²⁰⁵

Effective humanitarian diplomacy rests on nuanced understanding of the entirety of political, cultural, and socio-economic issues in a conflict environment. This requires humanitarian actors to undertake increased efforts toward improved political and conflict analysis, an effort underway at some humanitarian agencies.²⁰⁶ In addition to meaningful analysis, trust and

confidence building measures with armed actors are vital to ensure engagement can begin.

As attacks on aid workers and challenges for access increase, the argument for sustained humanitarian diplomacy to promote adherence to IHL has become more pronounced. Humanitarian diplomacy can be implemented at multiple levels. International organizations can promote domestic legislation that protects humanitarian action, cultivate shared values and commitment to humanitarian principles, and pass treaties and resolutions protecting humanitarian action and reaffirming commitments to international law.²⁰⁷ For example, UNSCR 2165 (2014) reaffirms an international commitment to humanitarian assistance in Syria and calls for improved monitoring of civilian casualties, access constraints, and other violations of international humanitarian law.²⁰⁸

National governments and organizations can reduce barriers to access and negotiate ceasefires and peace treaties among parties to the conflict. In Syria, an 18-month campaign to eradicate polio was successfully managed despite repeated displacement, damage to health infrastructure, and ongoing violent attacks.^{209,210} Importantly, these types of negotiations often require compromises, such as in northern Damascus in 2015 when government forces agreed to allow entry of humanitarian aid in exchange for reconnection of their water supply, which opposition forces had severed.²¹¹

Local actors can facilitate negotiations between humanitarian organizations and parties to conflict, bringing longstanding community relationships to bear in support of access. ^{212,213} For example, armed groups are more likely to allow entry for medical workers and health organizations than for organizations that focus on women and children or offer resources for survivors of gender-based violence, yet in some cases, local organizations have been able to negotiate their access, too. ²¹⁴

Perceptions and outcomes of humanitarian diplomacy vary based on context, especially in environments where there is a greater presence of sanctioned Foreign Terrorist Organizations, and thus are subject to more stringent screening requirements. In one survey, only 16 percent of national humanitarian staff in Afghanistan believed it was acceptable to negotiate with armed groups, but more than half in South Sudan did.²¹⁵

Some critics argue that negotiating with armed groups and parties to conflict risks violating humanitarian principles of independence and neutrality.²¹⁶ Others contend that humanitarian diplomacy depoliticizes humanitarian crises through "dull and technocratic language," detached from the realities of people on the ground, and worry about centralizing authority among international humanitarian organizations, especially given such drastic differences across political and social contexts.²¹⁷ Negotiations and humanitarian diplomacy should not be viewed as violations of neutrality, nor as conferring legitimacy on armed groups. Rather, these steps should be understood as a means toward a humanitarian end, necessary to reach vulnerable populations.

Context-specific humanitarian diplomacy remains essential for humanitarian actors operating in complex environments to access vulnerable populations and carry out critical programming. Donors and humanitarian agencies should continue improving the training and capacity of humanitarian staff to engage in these complicated negotiations.

TRACKING, MONITORING, AND REPORTING ACCESS CONSTRAINTS

To understand, track, and report on access challenges, the United Nations Office for the Coordination of Humanitarian Affairs (OCHA) developed the Access Monitoring and Reporting Framework (AMRF). The framework identifies nine categories of access constraints, ranging from political barriers, such as denial of humanitarian need by political leaders or diversion of aid through specific checkpoints, to physical impediments or hazards to aid workers and local populations, such as the presence of land mines or lack of reliable infrastructure for transporting people and goods.²¹⁸ The AMRF does not measure the severity of access constraints, making it difficult to compare contexts and look at where access is most restricted.

A standardized framework to quantify access impediments across diverse contexts is also challenging in terms of measuring quality of access and the evolving needs of populations. Attaining quality access implies having unfettered, sustained, and principled access to populations, and in the current framework, these distinctions are lost.

The AMRF is based on reporting by humanitarian actors, who lack a systematic, sector-wide framework for capturing the multitude of complex variables that contribute to access delays and challenges. While admittedly difficult, developing such a framework would be consistent with Grand Bargain commitments, including joint needs assessments and harmonized reporting structures. ²¹⁹ Incorporating a coordinated description of access challenges into common problem analysis and impact reporting would enable a deeper understanding of the access landscape.

Additionally, the nature and quality of AMRF tracking and reporting varies widely from context to context, potentially due to challenges of data collection, funding, trust gaps, and personnel. This unfortunate gap in understanding access constraints makes it harder for humanitarian actors to provide a strong evidentiary basis for engaging in effective diplomacy and advocacy on access denial.

One positive development in terms of monitoring and tracking access challenges is the ACAPS Humanitarian Access overview, which uses a methodology that quantifies qualitative data to provide a more comprehensive overview of access challenges in conflict-affected areas. ACAPS reports provide useful top-line summaries of access challenges but have limitations as they are based in part on the AMRF and focus primarily on challenges faced by international humanitarian organizations, leaving out local and community-based responders.²²⁰

An additional weakness in the frameworks is the tendency to focus analysis on how access is denied and with what tools, while neglecting to fully explore why and when access is denied or allowed. Motivations are often reduced to simple narratives related to military advantage, cultural or ethnic disputes, and power politics, when the true drivers may be more nuanced. Future scholarship oriented toward understanding combatant behavior in situations of armed conflict should examine why states and armed groups choose to delay or allow humanitarian assistance.²²¹ Greater understanding of underlying motivations is essential for future humanitarian operations, as it can inform negotiations and diplomatic efforts to facilitate access.²²²

ACCOUNTABILITY FOR ACCESS DENIAL

The U.S. State Department Human Rights Report captures incidents of attacks on aid workers and restrictions on humanitarian action; it includes elements of access denial in sections regarding abuses in conflict, freedom of movement and association, respect for the integrity of persons, and internally displaced persons and refugees. ²²³ Yet, it does not have a standalone section that covers all elements of access denial in one place, which limits its effectiveness as

a tool for humanitarian diplomacy. Given the severity of the challenges of access, and the centrality of access denial to humanitarian outcomes, combining access challenges in one section would be useful for diplomatic engagement and accountability.

The Children in Armed Conflict (CAC) Report, mandated by United Nations General Assembly, also includes denial of humanitarian access for children and considers access denial one of six "grave breaches that form the basis of the Council's architecture to monitor, report, and respond."²²⁴ This report captures incidents of access denial, while acknowledging "the nature of constraints to humanitarian access differ vastly from one context to another." However, denial of access is the only grave breach that does not trigger listing a country in the annexes of the annual report.²²⁵

Accordingly, there is a need for access denial to be tracked, monitored, and analyzed in a more systematic way, starting with humanitarian agencies themselves collecting the information and having the data captured systematically by OCHA (or other UN agencies) in all their operations. In order to do so, trust must be established between UN agencies and operational humanitarian organizations to ensure data that is shared is collected, stored, protected, and handled with appropriate levels of care.

Data and analysis on access denial should inform U.S. and other donor country reporting on humanitarian and human rights issues, as well as the CAC report. Ultimately, such reporting, built on a solid evidentiary basis, must also include repercussions for access denial. At the United Nations, that could include being listed in the CAC report. For the United States, the intentional denial of humanitarian access should be a consideration in all diplomatic and foreign policy engagements. For state and partner forces, intentional and arbitrary denial of access should be grounds for an immediate review and potential cessation of military and security assistance.

TECHNOLOGY AS A TOOL FOR ACCESS

Operational organizations and international agencies have pushed for adoption of new technologies to improve the efficiency and effectiveness of humanitarian response and to alleviate access challenges.

New information and communication technologies can improve humanitarian organizations' communications with affected populations and enhance the delivery of goods to vulnerable groups. Some humanitarian challenges can be mitigated by harnessing technology and providing access

to vital and lifesaving information via mobile phones and to cash transfer enabling technologies that facilitate access to goods and services. The use of geospatial analysis and mapping tools can also improve coordination and facilitate decision making.

In Aleppo, Syria, humanitarian organizations have used open-source maps to inform individuals of the location of the closest and safest water point via mobile phones.²²⁶ In 2014, Ebola's spread through West Africa was tracked through crowdsourced visualization maps.²²⁷ In Iraq, UN agencies created a toll-free line staffed by Iraqi women to provide important information on assistance programs.²²⁸

Because internet connectivity and social networks have become important information-sharing tools for affected populations and humanitarian organizations, interference with connectivity is now increasingly recognized as an access constraint. Though technology cannot replace face-to-face interaction, when humanitarian agencies are unable to reach vulnerable groups, mobile technology and social media platforms may provide a means of informing and assisting affected population, verifying assessments, and monitoring aid distributions. These innovations must also be accompanied by flexibility on the part of donors to allow for adaptive management practices.

Yet, scaling up existing technologies, while essential, is alone insufficient to overcome access barriers. Technology is a tool but not a solution to access constraints. Without thoughtful, inclusive strategic planning, new technologies introduce challenges of their own. Unequal access to various technologies can deepen pre-existing social divides; women, for instance, are often less likely to have access to technology than men, which can result in inequitable distribution of assistance. Moreover, a study by the Equals Research Group suggests there is evidence that "The gender digital divide widens as technologies become more sophisticated and expensive," ultimately impacting meaningful and effective access to technology.²²⁹

Social networks can also breed mistrust. During the 2019 Ebola outbreak in the Democratic Republic of Congo, armed groups spread misinformation via WhatsApp; multiple health workers and treatment centers were attacked as a result of incitement and rumors.²³⁰ In Myanmar, the military and community leaders used Facebook to stigmatize Rohingya communities, inciting a campaign of violence that led to 900,000 Rohingya fleeing to Bangladesh.²³¹

Guaranteeing data security also creates safety and ethical challenges. IDs, electronic fingerprints, and other digital markers offer opportunities for improved humanitarian response that can assist in mitigating access challenges and New information and communication technologies can improve humanitarian organizations' communications with affected populations and enhance the delivery of goods to vulnerable groups.

protect against fraud and diversion. But right now, there is no unified method of collecting, sharing, or protecting data among different humanitarian agencies and organizations.

I THE CASH BENEFIT

During the 2016 World Humanitarian Summit, more than 30 of the largest donors and aid providers endorsed a series of commitments, collectively known as the Grand Bargain. ²³² One promising commitment was to increase the use and coordination of cash in humanitarian response.

Cash programming gives aid recipients autonomy and dignity, allowing individuals to prioritize needs based on their unique circumstances. Cash can be more cost-effective than delivering commodities and can support, not compete with, local markets in protracted conflicts.²³³ It can be delivered in-person or electronically and potentially help overcome access constraints that impede traditional in-kind aid, such as food deliveries. Yet, cash-based programming is not a panacea absent concurrent political solutions to access challenges. Some donors remain uncomfortable with what they perceive to be unacceptable levels of risk, and even cash-based programs require access for monitoring, evaluation, and accountability.234,235 While efforts have been made to harmonize common donor approaches, variations remain in cash-based programming.236

Though 90 percent of the Grand Bargain signatories have reported an increased use of cash, challenges with risk mitigation remain. In one case, the United Kingdom's Department for International Development briefly suspended cash assistance for northeastern Syria because of fears that the money would end up in the hands of ISIS

members.²³⁷ Donors and implementing organizations must persistently work together to mitigate risks so that innovative aid programs can continue to save lives and livelihoods in the world's toughest places.

THE PRIVATE SECTOR'S ROLE

Private-sector organizations and donors are often at the forefront of research, design, and development across sectors. Their innovations can help overcome logistical and infrastructure-based obstacles to access.²³⁸ After a disaster, some ridesharing services share GPS data with USAID and the World Food Programme, which helps show the accessibility of different communities.²³⁹

Private organizations can reduce response times, share funding responsibilities, advocate for humanitarian issues with clients and other businesses, and fill operational and funding gaps in humanitarian assistance. Ikea has contributed more than \$198 million in funding to the UNHCR, and the Tent Foundation encourages private organizations to hire more refugees and invest in refugee relief services. ^{240,241} Local businesses are equally important in helping communities in crisis cope and recover. Evidence from Syria indicates that households that have access to finance and robust local markets report higher levels of wellbeing. ²⁴²

Some humanitarian advocates worry about the participation of for-profit organizations in humanitarian assistance. Since private organizations are not driven primarily by humanitarian principles, they evaluate results and measure success differently. Private-sector actors are also risk averse, perpetuating the problem of aid being distributed where it is easy but not necessarily where needed most.

There are also concerns about possible exploitation of vulnerable populations. ²⁴⁴ Cash transfers and vouchers now make up about 7 percent of humanitarian assistance, prompting companies like Visa and Mastercard to develop their own cash transfer systems. ²⁴⁵ While this can improve access to financial services, there are active discussions around the appropriate role of payment providers and financial institutions in humanitarian programs to ensure vulnerable populations benefit from market-driven approaches but aren't exploited. ²⁴⁶ While it remains important to be cognizant of profiteering concerns, the potential for the private sector to bring more resources, expertise, and innovation to humanitarian action justifies efforts to incorporate it into humanitarian responses. ²⁴⁷

LOCALIZATION AND FAITH-BASED GROUPS

Another encouraging Grand Bargain initiative is the effort to put local and national implementing partners on equal footing with international organizations by reducing barriers to collaboration, boosting funding, and improving their operational capacity.²⁴⁸

Localization is predicated on the understanding that organizations rooted within crisis areas themselves are often better equipped to understand complicated cultural dynamics and more capable of engaging in the necessary humanitarian diplomacy to achieve access breakthroughs. Application efforts can yield secondary long-term benefits for affected populations by building foundational expertise within humanitarian contexts.

Localization has also meant that many safety and reputational risks associated with humanitarian action fall disproportionately on local partners. In particularly insecure contexts, some organizations rely on remote management, creating additional accountability and reporting challenges and leaving local partners to bear the brunt of the workload for donor reporting and with the security risks.²⁵¹ Donors may also be reluctant to provide direct funding to national organizations out of concern for their inability to comply with administrative and financial procedures as well as fears of diversion to sanctioned groups.

Engaging faith-based groups can also play an integral part of this effort, particularly in societies where religious and cultural organizations play a prominent role.²⁵² Faith-based organizations can unlock access by drawing on existing cultural and social bonds and have proven successful in using their reputational strength to overcome access barriers.

.S. DERSHIP

PREVIOUS PAGE

Mercy Corps driver Peter Jany Kew in South Sudan, 2016.

DOMINIC NAHR/Mercy Corps

HISTORY OF U.S. HUMANITARIAN ACTION

Amid historically high demand for humanitarian resources-often in disordered environments beset by geopolitical tensions—the United States remains the leading humanitarian donor in terms of overall volume. In 2017, the Congressional Research Service estimates the United States spent nearly \$50 billion on foreign aid broadly defined, or about 1.2 percent of the total federal budget, and dedicated around 18 percent of the aid budget, nearly \$9 billion, to humanitarian activities.²⁵³ Adjusted for inflation, annual foreign assistance funding over the past decade was the highest it has been since the Marshall Plan, and the United States remains the largest global contributor to humanitarian assistance.254 The nearly \$9 billion dollars of humanitarian funding Congress appropriated on a bipartisan basis upholds a legacy of U.S. leadership in humanitarian assistance going back to the post-World War II era.

Since the institutionalization of modern-day foreign assistance, the U.S. rationale for foreign assistance programs has been grounded in national security, economic prosperity, and humanitarian interests derived from a moral imperative. ²⁵⁵ In the case of natural or manmade disasters, the Foreign Affairs Authorization Act of 1961 stipulates that "prompt United States assistance to alleviate human suffering caused by natural and manmade disasters is an important expression of the humanitarian concern and tradition of the people of the United States." ²⁵⁶

Humanitarian aid receives special privileges within foreign assistance because it is meant to respond to emergency situations and be driven by need alone, free of political considerations. Humanitarian activities are broadly defined to allow U.S.-funded programming to meet crisis-specific

Amid historically high demand for humanitarian resources—often in disordered environments beset by geopolitical tensions—the United States remains the leading humanitarian donor in terms of overall volume.

needs. The legislation governing humanitarian assistance grants the president decision making authority over the type of aid to be used.²⁵⁷ The Foreign Assistance Act of 1961 as amended (P.L. 87-195) also allows the president to authorize the provision of disaster and humanitarian assistance even when other types of aid may be prohibited.

Humanitarian aid has historically been offered even to countries with whom the United States has been openly adversarial or suspended political ties. Following the 2003 earthquake in Bam, Iran, for example, President George W. Bush took steps to expedite response efforts, announcing that the "Iranian people deserve and need the assistance of the international community."²⁵⁸

U.S. LEADERSHIP NOW

Today, the United States is at a critical crossroads. Although money appropriated to humanitarian assistance has steadily increased over the last several years—thanks to bipartisan support in Congress—the Trump administration's budget proposals have called for substantial reductions in international assistance programming.²⁵⁹ For 2020, the budget proposed a 24 percent cut to the State Department and USAID, with a 34 percent cut to overall funding for humanitarian assistance compared to FY 2019-enacted levels.²⁶⁰

The administration's proposed funding cuts coincide with a conspicuous absence of U.S. leadership on international humanitarian issues, with the United States in some cases valuing short-term political objectives over support for principled humanitarian action. This represents a significant reversal of America's humanitarian legacy. The absence of U.S. leadership has been strongly felt by humanitarian

actors around the globe and is reflected in Pew research polling showing substantial decline in global approval ratings of U.S. leadership internationally.²⁶¹ A restoration of U.S. leadership in the humanitarian system is vital, given the outsized contribution of the United States and considering increasing humanitarian needs and the dramatic rise in blocked access.

HUMANITARIAN AID AND THE NATIONAL SECURITY STRATEGY

The U.S. National Security Strategy determines administration priorities and informs policy decisions across all federal agencies. The strategy released in December 2017 demonstrates a broad commitment to humanitarian assistance, consistent with its four pillars: protecting the homeland, protecting American prosperity, preserving peace through strength, and advancing American influence.²⁶² It recognizes the obligation to alleviate human suffering both as an expression of American values and as a way of asserting influence in the international community. By explicitly stating the U.S. commitment to reducing human suffering in conflict and natural disasters, supporting food security and health programming, and aiding displaced populations, this document enshrines the U.S. commitment to humanitarian assistance as an expression of American values and leadership in the world.

The strategy states that "no nation can unilaterally alleviate all human suffering, but just because we cannot help everyone does not mean that we should stop trying to help anyone," an important recognition of the limits of U.S. resources and validation of international cooperation. Humanitarian assistance is framed as a priority central to national interests, made possible through shared responsibility with allies, partners, and multilateral organizations.

Despite this acknowledgment of humanitarian assistance as a tool for advancing American influence and reducing human suffering, competing political priorities and the Trump administration's actions have undermined U.S. humanitarian leadership. For example, the administration is conditioning aid to Central American countries based on their efforts to reduce migration. Similarly, as the humanitarian crisis in Venezuela unfolded in early 2019, public statements by administration officials conflated political and humanitarian aims, in effect subordinating humanitarian aid to an explicitly political aim of regime change. That in turn became justification by the Maduro government to deny entry for desperately needed food and

FOR THE UNITED **STATES TO RESTORE** ITS VITALLY IMPORTANT **LEADERSHIP ON HUMANITARIAN ISSUES, CONGRESS AND THE** ADMINISTRATION SHOULD WORK **TOGETHER** SYSTEMATICALLY TO REAFFIRM U.S. **COMMITMENT TO HUMANITARIAN PRINCIPLES AND ACTION AND TO ROBUSTLY FUNDING HUMANITARIAN** PROGRAMS OVERSEAS.

by allies and partners and open the door to more effective focus upon the central concern of this report, overcoming the rising barriers to humanitarian access.

medical items.²⁶³ From mid- to late-2018, in pursuit of its policy of "maximum pressure" against North Korea, the administration held up health and humanitarian aid, through both bilateral and multilateral channels, even though that aid was explicitly exempt from sanctions. Domestically, the Trump administration has pressed charges against civilians for providing humanitarian relief in the desert along the southern border.²⁶⁴

Internationally, even as the strategy calls for U.S. leader-ship and engagement in "multinational arrangements," the administration has withdrawn from institutions crucial to mitigating the impacts of humanitarian crises, including by ceasing to fund the United Nations Relief and Works Agency (UNRWA), a departure from previous Republican and Democratic administrations.²⁶⁵

Robust and principled U.S. humanitarian assistance supports multiple U.S. national interests, including alleviating human suffering, promoting stability and security, and preserving the image of the United States abroad as a beacon of enlightened self-interest in striving to advance our common humanity. For the United States to restore its vitally important leadership on humanitarian issues, Congress and the administration should work together systematically to reaffirm U.S. commitment to humanitarian principles and action and to robustly funding humanitarian programs overseas. Renewed U.S. leadership will stir further action



PREVIOUS PAGE

A Syrian man carries donated food supplies from an aid distribution centre in Aleppo on September 13, 2012.

MARCO LONGARI/AFP/ Getty Images

o reverse the steady erosion of humanitarian access across multiple fragile and conflict-affected states and to level the playing field so that humanitarian law, principles, and action are respected and protected at a far higher level, the CSIS Task Force on Humanitarian Access recommends the following:

Elevate humanitarian interests and make access a foreign policy priority. The United States should overtly elevate humanitarian issues alongside foreign policy and national security priorities, making them a sustained focus of high-level diplomacy with partner governments and allies and at the United Nations.

- ♦ The White House, together with departments and agencies, should explicitly raise the importance of humanitarian assistance and achieving humanitarian access in strategic planning and related guidance documents, including the National Security Strategy and the Quadrennial Diplomacy and Development Review. This will visibly demonstrate a renewed commitment to humanitarian issues in diplomatic and other engagements with allies and multilateral organizations and provide the necessary top-down guidance.
- ♦ The administration should integrate humanitarian access issues into security and counterterrorism discussions at the National Security Council (NSC) by including officials from the Department of State and USAID with responsibility for humanitarian access issues. These individuals are to be a strengthened, vigilant voice with direct communications to NSC leadership and charged with mobilizing U.S. diplomatic influence around access issues with the United Nations, donor governments, humanitarian organizations, and foreign governments.
- The United States should prioritize humanitarian access in multilateral engagement with a focus on underlying political and security obstacles to humanitarian access.

- ♦ The Department of Defense should engage in support of and in partnership with the Department of State and USAID to address humanitarian access obstructions and denial tied to the actions of partner forces. The Department of State and Department of Defense should work with partner governments to raise issues related to the repeated deliberate denial of humanitarian assistance in areas under military control as a priority consideration in determining foreign or security sector assistance.
- Congress should reaffirm the centrality of respecting and ensuring respect for international humanitarian law and upholding humanitarian principles in the U.S. government's own behavior as well as that of its allies and partners to guarantee safe, unhindered, and sustained access to humanitarian assistance in crisis contexts.
- Strike a new risk balance. The United States, the United Nations, and other donor governments should reconcile tensions between national security and humanitarian interests, including in counterterrorism regulations, and establish mechanisms for a more transparent, predictable, and durable balance that better protects the integrity of humanitarian operations and staff in conflict areas.
- ♦ Congress should immediately clarify its intent with respect to material support for terror provisions and establish a humanitarian exemption for activities that are consistent with Congressionally authorized and appropriated humanitarian activity and that could be exercised by the executive branch on a case-by-case basis.
 - Such legislation can be modeled on similar exemptions in law in the European Union, United Kingdom, and Canada that allow prosecution for intentional diversion and corruption while enabling principled humanitarian action.
- ♦ Relevant Congressional committees should engage directly with the administration, and each other, to support efforts to expedite and improve the certification and oversight processes for recipients of U.S. humanitarian funding. Congressional committees should work collaboratively and directly with the Department of State and USAID to ensure consistency across the U.S. government in implementation of Congressional instructions.
- ♦ The Department of State, USAID, Department of Treasury, and Department of Justice should improve the process of consideration for waivers and licenses for safeguarding humanitarian action in areas with presence of Foreign Terrorist Organizations and Specially Designated Global Terrorists.
- ♦ The relevant departments should clarify their criteria for granting waivers and licenses and widely share these

- guidelines with humanitarian grantees. The process of seeking waivers and licenses should be conveyed to operational humanitarian actors and include a clear time frame for a response from the Departments of Treasury and State, along with a mechanism for tracking applications and decisions.
- U.S. officials and humanitarian agencies should engage together in a constructive process to find solutions that best meet the twin objectives of counterterrorism sanctions and humanitarian programs that effectively promote U.S. interests and values.
- Humanitarian organizations should be prepared to provide specific examples of access problems due to U.S. regulations. Humanitarian organizations and U.S. officials should engage in a dialogue to identify solutions that allow increased flexibility and freedom of action.
- ♦ USAID and the State Department should work with other humanitarian donors and the United Nations to ensure counterterrorism resolutions include reference to state responsibilities to honor international humanitarian law and include safeguards for impartial humanitarian action. The United Nations should develop a common framework of language that protects humanitarian action and, in addition to including this framework in its own resolutions, encourage member states to incorporate the framework in domestic legislation that emerges from UN resolutions. The United Nations Security Council should also provide greater clarity for member states and humanitarian actors regarding overlapping UN sanctions regimes and counterterrorism resolutions.
- ♦ USAID should work with implementing partners to ensure anti-terrorism certification requirements for grantees do not create an undue burden and allow for principled humanitarian programs that are impartial and based on need alone. USAID and other humanitarian donors should also incorporate the costs of compliance for implementing counterterrorism regulations into grants to humanitarian organizations.
- ♦ The U.S. Department of Treasury, Financial Action Task Force, the Federal Reserve, and large international banks should engage with humanitarian organizations on bank derisking to facilitate funding and financing for humanitarian operations in complex environments.
- Increase accountability and harness the power of data. The United States, other donors governments, and the United Nations should empower partners and UN agencies to safely and more effectively document and share data on obstruction of humanitarian access, strengthen

required annual reporting on and monitoring of access constraints, and increase the political and reputational costs of access denial by states and armed groups.

- ♦ The Department of State should track denial of humanitarian access and include such violations within a designated section in the annual Human Rights Report to Congress. The Departments of State and Defense should consider deliberate, unlawful humanitarian access denial as part of their security assistance screening requirements for gross violations of human rights.
- Congressional committees overseeing military sales should review U.S. security partnerships to ensure partner militaries and armed groups are acting consistently with international humanitarian law and humanitarian principles regarding humanitarian access.
- Congress should pursue legislative options to condition lethal security assistance, including arms sales, based on unlawful denial of humanitarian access and withhold such assistance until Department of State and Department of Defense document partners' behavior change.
- ♦ The United Nations should include denial of access in its Regional Monthly Reviews established under the Human Rights Up Front initiative. This reporting should be incorporated into an annual report on humanitarian access mandated by the Security Council that tracks improvements and deteriorations in the provision of humanitarian assistance.
- ♦ The Inter-Agency Standing Committee should develop operating guidelines for state facilitation of humanitarian assistance in complex emergencies, modeled along the guidelines prepared by the International Federation of the Red Cross/Red Crescent for natural disaster response.
 - This process should include the World Bank and other development partners to ensure the facilitations of humanitarian operations is incorporated into good governance practices.
- ♦ Humanitarian organizations should (collectively and individually) define common acceptable standards regarding the scope of donors' regulatory and reporting burden. These common standards would form the basis of dialogue with donor governments and ensure burden and risk-sharing regarding unintentional aid diversion.
- ♦ Donors should work with humanitarian agencies to improve the evidentiary basis concerning the operational impact of access challenges. Humanitarian agencies should work together with OCHA and other UN agencies to establish a consistent, data-driven mechanism to record access denial, including the

impacts on affected populations and analysis on the drivers of access denial.

This data should be used to inform a collective analysis based on regular reporting with empirical data that captures the full impact of access denial. This should incorporate metrics that account for both sustained, quality access and civilian protection.

Bolster training and technology. The United States, donor governments, and UN agencies should collaborate with humanitarian actors to build frontline humanitarian negotiation and diplomatic skills and to increase funding and focus on the innovative technologies and practices that can overcome access challenges.

- ♦ The Department of State should improve foreign service officer training in humanitarian issues, guaranteeing political and economic officers serving overseas are equipped in humanitarian issues. This training should extend to executive levels, ensuring ambassadors, deputy chiefs of mission, and political officers are prepared to engage in effective diplomacy consistent with humanitarian principles. This training should also be required for other government officials who engage with humanitarian issues, including at the Department of Treasury, Department of Justice, Department of Defense, and USAID.
- ♦ U.S. officials who deal with the intersection of humanitarian action, sanctions, and counterterrorism programs should be trained and educated in core humanitarian concepts, programs, and principles.
- ♦ The Department of Defense should ensure humanitarian principles, humanitarian actors, and the challenges of humanitarian access are integrated into military education and training, particularly when military personnel deploy to regions where humanitarian access is a concern.
- ♦ The Departments of State and Defense should design security partnerships to include "upstream" training and exercises to imbue IHL and humanitarian principles into partners' decision making on the use of force and interaction with civilian populations—beyond classroom teaching.
- Donors should increase funding for essential skills and new technologies, including frontline negotiation, humanitarian diplomacy and analysis, and technological innovation.
 - Donors should continue to support a pooled fund for innovation that specifically addresses access challenges, including the provision of cash assistance and the use of new technologies (drones and satellite imagery) for needs assessments.

- Donors should work with humanitarian actors to further understand unique vulnerabilities within affected populations and to ensure humanitarian response meetstheneedofallindividualsinahumanitarian crisis.
- Donors should support existing training programs in humanitarian frontline negotiations and fund increased political analysis capacity within humanitarian organizations. Officials in donor governments should be trained and equipped to support frontline negotiations and humanitarian operations
- ♦ Humanitarian organizations should implement initiatives and innovations including cash programming and localization efforts to help ensure assistance reaches the most vulnerable populations and supports existing coping mechanisms, including by sustaining local markets.

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Prior to joining CSIS, Mr. Kurtzer spent seven years with the International Committee of the Red Cross (ICRC), most recently as head of communications for the ICRC Delegation in Israel and the occupied territories. Previously, he served as head of public and congressional affairs for the Washington Delegation of the ICRC, representing the ICRC to a broad spectrum of audiences in the United States and Canada. In addition, he has conducted field missions in South Sudan, and Rakhine State, Myanmar and spent nearly three years as a consultant with the ICRC delegation in Pretoria, South Africa. From 2007-2009, he served as the congressional advocate at Refugees International (RI), a humanitarian advocacy organization based in Washington D.C. Mr. Kurtzer began his career as a legislative assistant to Congressman Robert Wexler of Florida covering domestic and foreign policy issues, including managing the Congressional Indonesia Caucus. Mr. Kurtzer earned an MA in peace and conflict studies from the University of Queensland in Brisbane, Australia, where he studied as a Rotary Foundation World Peace Fellow. He also holds a BA in philosophy from the University of Maryland, College Park, with a citation in religious studies, and is an alumnus of the College Park Scholars Public Leadership program.

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