



# Humanitarian Access in Situations of Armed Conflict

## Practitioners' Manual

Version 2, December 2014



Schweizerische Eidgenossenschaft  
Confédération suisse  
Confederazione Svizzera  
Confederaziun svizra

Federal Department of Foreign Affairs FDFA



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**Federal Department of Foreign Affairs FDFA**

This Practitioners' Manual was elaborated by the Swiss Federal Department of Foreign Affairs (FDFA), the United Nations Office for the Coordination of Humanitarian Affairs (UNOCHA), and Conflict Dynamics International (CDI).

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## Background

In light of the challenges in securing and sustaining humanitarian access and the central role access plays in contributing to effective humanitarian assistance and protection, the Government of Switzerland launched an initiative in 2009 to develop practical resources on humanitarian access in situations of armed conflict.

This Practitioners' Manual and the accompanying publication, *Humanitarian Access in Situations of Armed Conflict: Handbook on the International Normative Framework*, are the two resources developed under the initiative. These resources also contribute to the fulfilment of the objectives of the Swiss Strategy on the Protection of Civilians in Armed Conflict.

This Practitioners' Manual was elaborated by the Swiss Federal Department of Foreign Affairs (FDFA), the United Nations Office for the Coordination of Humanitarian Affairs (UNOCHA), and Conflict Dynamics International (CDI).

The process for elaborating the resources comprised two stages. The first stage involved policy-oriented research, extensive consultations with the intended audience, field case studies, and methodology development during the period 2009 to 2011. Stage one resulted in Version 1 of the Manual and Handbook (November 2011). The second stage used Version 1 as the basis for further extensive consultations and validation of the methodology, including through four Regional Consultation Workshops held in Switzerland, Jordan, Kenya and Thailand during 2012 and 2013. The final result is presented here as Version 2 of the Practitioners' Manual and Handbook.

Those consulted throughout the overall process include practitioners from UN humanitarian offices and agencies, and networks of nongovernmental humanitarian organizations, as well as individual organizations (both national and international), policy and research institutions focusing on humanitarian issues, humanitarian agencies or departments of interested States, and donors to humanitarian organizations.

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## ACRONYMS AND ABBREVIATIONS

<b>ACRWC</b>	African Charter on the Rights and Welfare of the Child	<b>ICJ</b>	International Court of Justice
<b>ACU</b>	Access Coordination Unit (interagency)	<b>ICL</b>	International Criminal Law
<b>AMRF</b>	Access Monitoring & Reporting Framework (UNOCHA)	<b>ICRC</b>	International Committee of the Red Cross
<b>AP</b>	Additional Protocol (to the Geneva Conventions)	<b>IHL</b>	International Humanitarian Law
<b>CDI</b>	Conflict Dynamics International	<b>IHRL</b>	International Human Rights Law
<b>CEDAW</b>	Convention on the Elimination of All Forms of Discrimination against Women	<b>(I)NGO</b>	(International) nongovernmental organization
<b>CESCR</b>	Committee on Economic, Social, and Cultural Rights	<b>KC</b>	Kampala Convention (African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa)
<b>CIHL</b>	Customary International Humanitarian Law	<b>M&amp;E</b>	Monitoring and Evaluation
<b>CRC</b>	UN Convention on the Rights of the Child	<b>NATO</b>	North Atlantic Treaty Organization
<b>CRPD</b>	Convention on the Rights of Persons with Disabilities	<b>NIAC</b>	Non-international Armed Conflict
<b>ECHO</b>	European Commission Humanitarian Office	<b>NSAG</b>	Non-State Armed Group
<b>ECHR</b>	European Convention on Human Rights	<b>OCC</b>	Situation of military occupation
<b>ERC</b>	Emergency Relief Coordinator	<b>PMSC</b>	Private Military and Security Company
<b>FDFA</b>	Swiss Federal Department of Foreign Affairs	<b>RM</b>	Remote Management
<b>GC</b>	Geneva Convention(s)	<b>RS-ICC</b>	Rome Statute of the International Criminal Court
<b>GP-IDP</b>	Guiding Principles on Internal Displacement	<b>UDHR</b>	Universal Declaration of Human Rights
<b>HC</b>	Humanitarian Coordinator	<b>UN</b>	United Nations
<b>HCT</b>	Humanitarian Country Team	<b>UNDSS</b>	UN Department of Safety and Security
<b>IAC</b>	International Armed Conflict	<b>UNGA</b>	UN General Assembly
<b>IASC</b>	Inter-Agency Standing Committee	<b>UNHCR</b>	UN High Commissioner for Refugees
<b>ICC</b>	International Criminal Court	<b>UNOCHA</b>	United Nations Office for the Coordination of Humanitarian Affairs
<b>ICCPR</b>	International Covenant on Civil and Political Rights	<b>UNSC</b>	UN Security Council
<b>ICESCR</b>	International Covenant on Economic, Social, and Cultural Rights	<b>UXO</b>	Unexploded Ordnance



# Introduction

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# 1.1

## Overview

This Manual is designed to support humanitarian practitioners in developing and implementing approaches to improve humanitarian access in situations of armed conflict.

As a starting point for using the Manual, this section presents a definition of humanitarian access, identifies the need for a more structured approach to securing and sustaining access, and explores some current challenges and opportunities related to humanitarian access. It also describes the objective and audience of the Manual, as well as how to use it.

# 1.2

## Defining humanitarian access

Humanitarian access is essential to effective humanitarian action.<sup>1</sup> It is not an end goal, but rather a means to fulfil the broader goal of improving the humanitarian conditions of people in need of assistance and protection.

Humanitarian access is defined here as:<sup>2</sup>

**access by humanitarian actors to people in need of assistance and protection AND access by those in need to the goods and services essential for their survival and health, in a manner consistent with core humanitarian principles.**

Where the need for humanitarian assistance and protection is sustained over a period of time, the term encompasses not only access to enable goods and services to swiftly reach people in need, but also maintaining such access as long as the humanitarian needs exist.

Humanitarian access involves specific actions, arrangements, and outcomes that can be undertaken by people in need and humanitarian actors, individually or collectively.<sup>3</sup> For humanitarian actors that decide to engage in practical ways with other humanitarians, sharing information or further coordination of efforts can yield important benefits for humanitarian access that individual actors may not be able to achieve on their own.

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1 As used in this Manual, the term “humanitarian action” encompasses humanitarian assistance and protection. A discussion on the use of terminology related to humanitarian access is presented in Section 1.3 of the companion Handbook.

2 There is no universally agreed-upon definition of the term “humanitarian access,” either in practice or in public international law. However, the Global Protection Cluster, UNOCHA, and many humanitarian actors use and promote a general definition of humanitarian access which encompasses the dual dimension of both humanitarians actors’ ability to reach affected people and of affected people’s ability to access humanitarian assistance and services. See: Global Protection Cluster Working Group (PCWG), *Handbook for the Protection of Internally Displaced Persons* (Geneva: Global PCWG, December 2007): [www.globalprotectioncluster.org](http://www.globalprotectioncluster.org) [accessed 4 April 2014].

3 Throughout this Manual the term “people in need” is used as shorthand for people in need of humanitarian assistance and protection. This includes civilians and others not or no longer participating in hostilities (such as prisoners of war; medical and religious military personnel; wounded, shipwrecked and sick combatants).

# 1.3

## Humanitarian access in contemporary armed conflicts

While humanitarian access is not a new issue, contemporary armed conflicts present new and/or more acute challenges to, as well as some opportunities for, securing and sustaining humanitarian access.

Some challenges to humanitarian access include:

- The majority of contemporary armed conflicts are non-international. There is a significant number and diversity of non-State armed groups (NSAGs) that can influence access in many of these armed conflicts.<sup>4</sup> Moreover, some non-international armed conflicts (NIACs) have seen a rapid proliferation of NSAGs as the conflicts evolve. The range of beliefs, motivations, and ways of operating among these groups varies widely, creating challenges for negotiating humanitarian access.
- In some conflict situations, negotiating access with States has also become more challenging with significant, and sometimes deliberately obstructive, bureaucratic procedures and/or movement-related restrictions on humanitarian organizations. Conditions imposed by States, whether donors or affected States, can challenge humanitarian organizations' efforts to protect and assist people in need in an impartial manner. For example, counter-terrorism laws and regulations may challenge impartial and independent action by prohibiting or discouraging humanitarian organizations from engaging with specific groups.<sup>5</sup>
- Overlapping and/or lack of distinction between mandates, roles, and ways of working among different types of actors can pose challenges for securing and sustaining humanitarian access. The involvement of political or military actors in or in support of relief operations, and how humanitarians engage with them, can compromise the real or perceived neutrality and impartiality of humanitarian operations. For example, this may be a particular challenge

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4 Lotte Themnér and Peter Wallensteen, "Armed Conflict, 1946-2013," *Journal of Peace Research* 51(4): 2014. See also, Uppsala Conflict Data Program (UCDP)/Peace Research Institute Oslo (PRIO) Armed Conflict Dataset v.4-2014, 1946 – 2013: <http://www.pcr.uu.se/research/UCDP/> [accessed 28 July 2014].

5 Kate Mackintosh and Ingrid Macdonald, "Counter-Terrorism and Humanitarian Action," *Humanitarian Exchange Magazine*, Issue 58 (July 2013): <http://www.odihpn.org/humanitarian-exchange-magazine/issue-58/counter-terrorism-and-humanitarian-action>, [accessed 17 April 2014]. See also: [https://docs.unocha.org/sites/dms/Documents/CT\\_Study\\_Full\\_Report.pdf](https://docs.unocha.org/sites/dms/Documents/CT_Study_Full_Report.pdf), [accessed 17 April 2014].

in situations where there are integrated political, military, and humanitarian functions in internationally mandated peace or political operations.<sup>6</sup>

- Growth in the number and type of organizations that present themselves as humanitarians in recent years creates new opportunities, but also some challenges. The extent to which some organizations may choose to compromise, in specific situations, core humanitarian principles in pursuit of access may affect the image of humanitarians as a whole.

Many of today's access challenges arise from factors that are external to humanitarian organizations, some of which are outlined above. However, humanitarian organizations often face important internal challenges as well, such as human resource constraints or inadequate security systems. In the context of these external and internal challenges, practitioners frequently approach humanitarian access in an unstructured way, with no clear method. Furthermore, practitioners, as well as actors influencing access, often lack clarity regarding the international normative framework on humanitarian access, including on the duties and obligations of parties to armed conflict and others concerning humanitarian access.

Structuring an approach that identifies, analyses, and seeks options to overcome access challenges can reveal potentially numerous opportunities to improve access. In addition to coordination, opportunities frequently exist in the areas of analysis, security management, logistics, human resources, and negotiation. Technological advances also allow for, among other things, new and better forms of communication, information management, analysis, and accountability. Understanding and applying relevant provisions of the international normative framework can also significantly advance efforts towards humanitarian access.

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6 See, e.g.: Victoria Metcalfe, Alison Giffin, and Samir Elhawary, UN Integration and Humanitarian Space: An Independent Study Commissioned by the UN Integration Steering Group, Humanitarian Policy and Stimson, December 2011: <http://www.stimson.org/books-reports/un-integration-and-humanitarian-space-an-independent-study-commissioned-by-the-un-integration-steer/>, [accessed 17 April 2014].

# 1.4

## Objective and audience

### 1.4.1 Objective

The objective of this Manual is to contribute to improved humanitarian access in situations of armed conflict.<sup>7</sup> It is designed to do so by supporting humanitarian practitioners in structuring an approach and developing options to secure and sustain humanitarian access.

The guidance in this Manual responds directly to the needs identified by practitioners in light of the challenges and opportunities presented in contemporary armed conflicts.

The companion resource, *Humanitarian Access in Situations of Armed Conflict: Handbook on the International Normative Framework* (“the Handbook”) lays out in detail the relevant provisions of the international normative framework relating to humanitarian access in situations of armed conflict. The international normative framework is also presented in summary form in this Manual, Section 2: Foundations of Humanitarian Access. The Handbook and Section 2 of this Manual respond directly to practitioners’ demands for greater clarity on the international normative framework as it pertains to humanitarian access.

### 1.4.2 Audience

The primary audience for this Manual and the companion Handbook is humanitarian practitioners engaged in planning, management, operations, and policy development related to humanitarian assistance and protection in situations of armed conflict. This includes practitioners working at headquarters and field levels, as well as those working with different types of humanitarian organizations, including UN, as well as national or international nongovernmental humanitarian organizations.

Secondarily, this Manual is intended for people in need of humanitarian assistance and protection themselves, officials of affected States and national authorities, parties to armed conflict, international organizations, and donors who support humanitarian action.

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<sup>7</sup> However, much of the methodology can be applied in other situations, such as natural disasters. Note that the applicable normative framework in situations other than armed conflict will differ from that pertaining to situations of armed conflict.



# 1.5

## How to use this Manual

Practitioners can use this Manual in two ways:

1. As a comprehensive, step-by-step “how-to” guide for developing and implementing an approach to access.
2. As a “menu” allowing separate use of distinct components that are of particular interest to the work of practitioners.

In either use, this Manual is designed to assist practitioners in analysing the context, and designing and implementing an effective approach to humanitarian access. The content of this Manual is designed to support practitioners in working in close coherence with the core humanitarian principles.

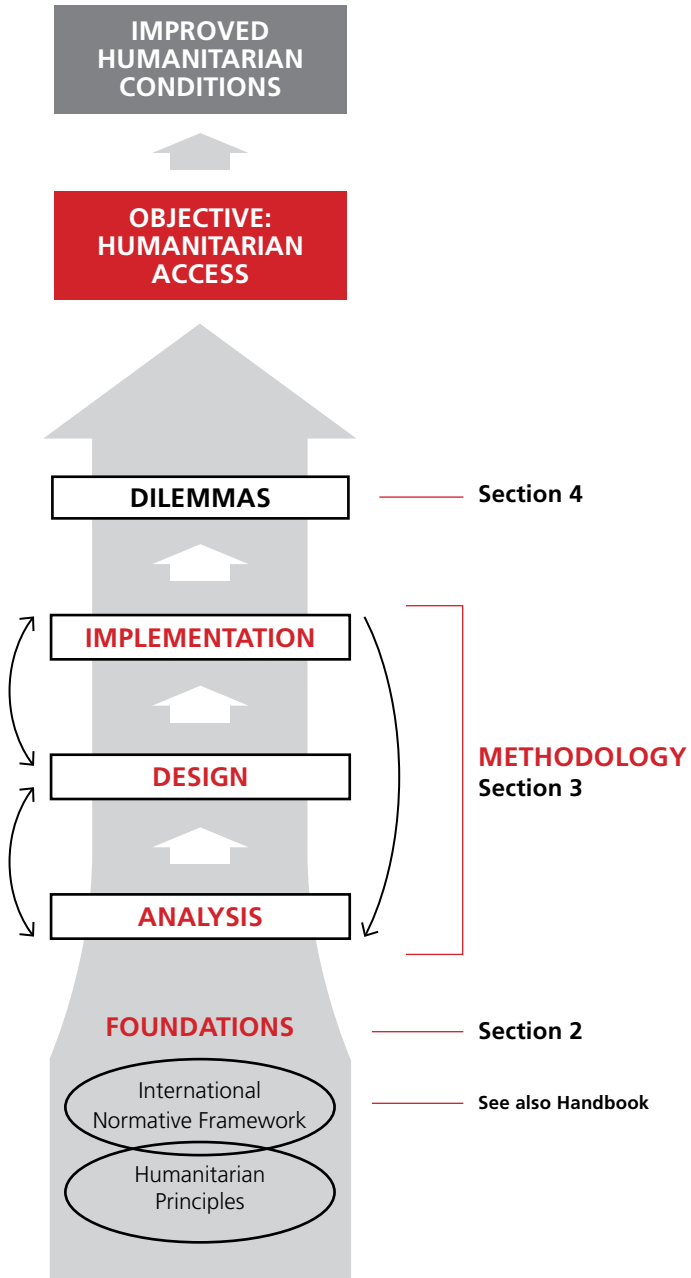
The guidance presented here complements and should be used in conjunction with existing policy guidance on issues closely related to humanitarian access, including in particular guidance on humanitarian negotiations and on security and risk management.<sup>8</sup>

Although this Manual can be applied to urgent or newly arising situations, it does not provide “quick fixes” to access constraints. It supports a systematic process aimed at generating effective and durable access options. Gaining access is rarely an absolute or “black and white” state, nor is it a static situation. It is a grey and shifting process that includes small successes and setbacks, and continual adjustments. Securing and sustaining access is therefore an iterative process, requiring practitioners to monitor, revisit, and adjust their approach as they learn what works and what does not as they confront changing circumstances.

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8 For specific references, see Annex V, Additional resources on humanitarian access.

Figure 1 – Overview of Manual content and objective





# Foundations of Humanitarian Access

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# 2.1

## Overview

This section presents the core humanitarian principles and the international normative framework as two complementary components of the foundations of humanitarian access.

The core humanitarian principles provide a normative basis to guide humanitarian action. They constitute a key foundation of humanitarian access as they can help ensure acceptance by all relevant parties. They guide the actions of practitioners in developing and implementing approaches to gain humanitarian access. They do this by qualifying which actions and options developed by practitioners are acceptable in terms of satisfying the distinct “humanitarian” nature of humanitarian access.

The international normative framework provides the minimum requirements and conditions for humanitarian access. It also lays out the duties and obligations of parties to armed conflict and others regarding humanitarian access.

The core humanitarian principles and the international normative framework share common principles of humanity and impartiality. The international normative framework also reflects other principles, such as non-discrimination, which are consistent with the spirit and intent of the core humanitarian principles.

Section 2.3 on the international normative framework summarizes the content of the companion Handbook.

# 2.2

## Humanitarian principles

This section presents the humanitarian principles as a component of the foundations for humanitarian access. It presents four core humanitarian principles and what they mean for humanitarian access.

The core humanitarian principles are humanity, neutrality, impartiality, and independence.<sup>9</sup>

- **Humanity:** Human suffering must be addressed wherever it is found. The purpose of humanitarian action is to protect life and health and ensure respect for human beings.
- **Neutrality:** Humanitarian actors must not take sides in hostilities or engage in controversies of a political, racial, religious, or ideological nature.
- **Impartiality:** Humanitarian action must be carried out on the basis of need alone, giving priority to the most urgent cases of distress and making no distinctions on the basis of nationality, race, gender, religious belief, class, or political opinions.
- **Independence:** Humanitarian action must be autonomous from the political, economic, military, or other objectives that any actor may hold with regard to areas where humanitarian action is being implemented.

Humanitarian organizations may also apply additional principles of humanitarian action drawn from other sources. One example is the *Code of Conduct for the International Red Cross and Red Crescent Movement and Nongovernmental Organizations in Disaster Relief* (1994), which promotes dignity, voluntary service, unity, universality, participation, accountability, transparency, and respect for culture and custom.<sup>10</sup>

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9 The four core principles presented here are those which are included in the seven fundamental principles of the International Red Cross and Red Crescent Movement (the other principles of the Movement being voluntary service, unity, and universality). The four core principles were endorsed in United Nations General Assembly Resolution 46/182 passed in 1991 (the first three principles as presented) and Resolution 58/114 of 2004 (the principle of independence). This reflects the central role of these principles in the United Nations emergency humanitarian assistance work. For more on principles see IFRC: <http://www.ifrc.org/who-we-are/vision-and-mission/the-seven-fundamental-principles/> [accessed 4 April 2014]. See also OCHA at: [https://docs.unocha.org/sites/dms/Documents/OOM\\_HumPrinciple\\_English.pdf](https://docs.unocha.org/sites/dms/Documents/OOM_HumPrinciple_English.pdf) [Accessed: 27 August 2014].

10 See <http://www.icrc.org/>. See also the *Code of Conduct for The International Red Cross and Red Crescent Movement and Nongovernmental Organizations in Disaster Relief* (1994): <http://www.ifrc.org/en/publications-and-reports/code-of-conduct/> [accessed 17 April 2014].

Additionally, “Do No/Less Harm” is a common and complementary guiding principle in humanitarian work.<sup>11</sup> This means that, at a minimum, humanitarians must understand, weigh, and prevent or mitigate the potential negative effects of delivering humanitarian assistance and protection, such as for instance exacerbating local tensions or security risks for individuals/groups when advocating on their behalf.

### CASE

#### **Government restrictions hamper independent and impartial aid**

Between 2007 and 2011, restrictions on humanitarian organizations’ activities, locations, and modes of delivery in one country rendered independent action highly challenging, especially in conflict-affected areas.

During this period, while pursuing its advocacy for principled humanitarian action, one organization chose to allow a high degree of government control over its activities in a conflict-affected area of the country, believing this compromise was better than the alternative of no access. Citing high security risks, the government severely restricted the organization’s movements and, during the more extreme periods, exercised a high degree of control over how, when, and to whom aid was delivered, at times taking charge of and delivering the organization’s goods. At such times, the organization was unable to operate in accordance with the humanitarian principles; the organization could not operate independently, and it was unable to determine needs and deliver aid impartially. Moreover, its close alignment with the government created suspicion on the part of local communities regarding its neutrality. By 2011, the organization refused to continue accepting these compromises, knowing that withdrawal might be the only alternative.

*Observations:* It is not always possible to gain access while strictly adhering to the core humanitarian principles. In this case, the organization initially accepted to work in a less principled manner in order to gain access. Once the implications of the compromise became fully apparent, the organization reasserted a strong principled approach.

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11 Mary B. Anderson, *Do No Harm: How Aid Can Support Peace – Or War* (Boulder: Lynne Rienner Publishers, 1999).

## The humanitarian principles in practice



Principles in practice checklist is available in Annex IV: Practical tools. This checklist assists practitioners in reviewing their application of humanitarian principles.

Adhering to the humanitarian principles is critical to building trust and acceptance with all parties and relevant actors, such as affected States, parties to armed conflict, affected people, and community leaders. Gaining acceptance can be a major enabler of humanitarian access and of more effective humanitarian response. Two of the ways in which the humanitarian principles can assist in building trust and acceptance are (1) ensuring consistency and predictability in how humanitarian practitioners work, and (2) enabling humanitarian practitioners to communicate clearly the motivation behind their actions.

The principles provide a key normative and operational foundation for securing and sustaining humanitarian access and for preserving distinction and not aligning humanitarian action with the objectives of political or military actors.<sup>12</sup>

By clearly defining the motivations and purpose of humanitarian action, what it involves and how it can be undertaken, the core humanitarian principles distinguish humanitarian assistance and protection from other forms of relief action provided by other actors – including civilian authorities, armed forces, and private corporations.

In practice, working in accordance with humanitarian principles requires determined effort, persistence, and investment. It can involve consulting people in need in order to understand and meet their needs effectively and efficiently. It requires closely monitoring the quality and means of delivering assistance, and preventing resource diversion. It also means negotiating with all relevant actors, drawing clear thresholds of what is acceptable and unacceptable, and preserving the actuality and perception of humanitarian work as impartial, neutral, and independent.

Table 1 below provides further guidance on some of the practical implications of the core humanitarian principles in relation to humanitarian access.

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<sup>12</sup> Note that the use of principles in humanitarian negotiations is often non-explicit; explaining and exemplifying a principled approach is often more effective than simply expounding the principles themselves.

**Table 1 – Humanitarian principles applied to access**

Humanitarian principle	What the principle means in practice for humanitarian access
<b>Humanity</b>	<ul style="list-style-type: none"> <li>Humanitarian access is sought for the purpose of alleviating human suffering and promoting human dignity.</li> <li>Humanitarian access serves to identify and address essential needs of the civilian population and others not participating in hostilities.</li> </ul>
<b>Neutrality</b>	<ul style="list-style-type: none"> <li>In seeking and maintaining access, humanitarian practitioners cannot take sides in hostilities or engage in controversies of a political, religious, or ideological nature.<sup>13</sup></li> <li>Negotiations or agreements on humanitarian access must not be linked to or contingent upon political negotiations.</li> <li>Practitioners should engage with all of the actors relevant to access to ensure they can reach all affected people and to ensure that the organization is not perceived to be supporting one side in a conflict.</li> </ul>
<b>Impartiality</b>	<ul style="list-style-type: none"> <li>Humanitarian practitioners must assess needs and must pursue access to meet those needs without discriminating against individuals or groups on the basis of ethnicity, gender, nationality, political opinions, race, religion, or any other identity characteristic.<sup>14</sup> Those most in need of assistance and protection must be prioritized.</li> <li>Humanitarian practitioners must maintain quality standards to ensure that the provision of goods and services achieve their intended purpose, and without discrimination.</li> </ul>
<b>Independence</b>	<ul style="list-style-type: none"> <li>Humanitarian organizations must retain operational control and direction of activities related to securing and sustaining humanitarian access.<sup>15</sup></li> <li>Humanitarians must negotiate agreements on humanitarian access separately from peace talks or ceasefire negotiations</li> <li>Funding arrangements must preserve the ability of humanitarian organizations to engage with all parties.</li> </ul>

13 This principle does not preclude actions of humanitarian organizations characterized as “faith-based organizations,” so long as those organizations, as with any others, act in an impartial and neutral manner. For more on faith-based humanitarian organizations, see, for example, Elizabeth Ferris, “Faith-based and secular humanitarian organizations,” *International Review of the Red Cross* (87) Number 858 (June 2005). Available at: <http://www.icrc.org/eng/resources/documents/article/review/review-858-p311.htm> [accessed 4 April 2014].

14 The essence of this principle, focusing on meeting needs without discrimination, is reflected also in various bodies of international law presented in Section 2.3.

15 The international normative framework presented in Section 2.3 provides that parties to armed conflict and other actors may, however, stipulate certain conditions as provided for under international law (for example, parties to armed conflict may have a right of control over routes of access).



The principles are integral to any approach to humanitarian access, and may surface in numerous ways, including:

1. as a filter to assist in developing and prioritizing options for humanitarian access (see Section 3);
2. as a source of guidance for framing an organization's internal policies and procedures relating to humanitarian access;
3. in communicating an organization's motives, objectives, and ethos, and shaping external perceptions of the organization;
4. to ensure consistency within and between humanitarian organizations in approaching humanitarian access.

Several sources of guidance exist to support practitioners in practically applying the humanitarian principles. Three important examples are:

- **Humanitarian negotiations with armed groups:** A manual produced by the UN in collaboration with members of the Inter-Agency Standing Committee (IASC) provides a structured approach and guidance on humanitarian negotiations with NSAGs.<sup>16</sup>
- **Civil-military relations:** A compilation of guidelines and references developed by the UN and the IASC on civil-military relationships and coordination.<sup>17</sup>
- **Security and risk management:** Guidance on humanitarian security and risk management developed by the UN and other studies/evaluations.<sup>18</sup>

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16 Gerard Mc Hugh and Manuel Bessler, *Humanitarian Negotiations with Armed Groups: A Manual for Practitioners* (New York: United Nations, January 2006): <https://docs.unocha.org/sites/dms/Documents/HumanitarianNegotiation-swArmedGroupsManual.pdf> [accessed 17 April 2014].

17 United Nations and Inter-Agency Standing Committee (IASC), *Civil-Military Guidelines and Reference for Complex Emergencies* (New York: United Nations Office for the Coordination of Humanitarian Affairs, 2008): <https://docs.unocha.org/sites/dms/Documents/ENGLISH%20VERSION%20Guidelines%20for%20Complex%20Emergencies.pdf> [accessed 17 April 2014].

18 Jan Egeland, Adele Harmer, and Abby Stoddard, *To Stay and Deliver: Good Practice for Humanitarians in Complex Security Environments* (New York: UN Office for the Coordination of Humanitarian Affairs, February 2011): [https://ochanet.unocha.org/p/Documents/Stay\\_and\\_Deliver.pdf](https://ochanet.unocha.org/p/Documents/Stay_and_Deliver.pdf) [accessed 17 April 2014]. See also United Nations Department of Safety and Security, Security Level System (SLS).

### Challenges to neutrality create access problems in Iraq

In the immediate aftermath of the invasion of Iraq in 2003, humanitarian organizations faced serious challenges in preserving their actual and perceived neutrality. This contributed to insecurity of humanitarian personnel, including targeted attacks, forcing most organizations to downsize and/or withdraw some or all of their international staff.

Suspicion about the neutrality of humanitarian assistance spread throughout Iraqi society in part because it was difficult or impossible to distinguish between the roles and activities of military/political actors and humanitarians. Some organizations were majority funded from governments participating in the Multi-National Force (MNF), while others availed themselves of armed protection from the MNF and/or private armed security contractors. Additionally, MNF and Iraqi armed groups attempted to “win hearts and minds” by assisting Iraqis themselves. All of this eroded the perceived neutrality of humanitarian organizations. By 2004, severe insecurity, including targeted attacks on humanitarians, forced most organizations to withdraw or operate in a low-profile manner, often through remote management, which had the compounding effect of further obscuring their actions and intentions.

*Observations:* The short-term access gains made from compromising the principles are frequently outweighed by the longer-term negative impact on humanitarian assistance and protection. From 2003 onward, the actions and choices of some political and military actors, and some humanitarian organizations themselves, obscured their respective roles and objectives, which likely contributed to insecurity of humanitarian personnel and hence reduced the access options available to many humanitarian organizations.

# 2.3

## The international normative framework

This section summarizes the international normative framework pertaining to humanitarian access. The companion Handbook presents the international normative framework in greater detail. The content of this section includes references to the corresponding sections of the Handbook where practitioners can learn more about the international normative framework.

The international normative framework is the other component of the foundations for humanitarian access, used side by side with humanitarian principles. The international normative framework reflects some of the same principles as those presented in Section 2.2, namely the principles of humanity and impartiality.

This section summarizes the relevant provisions of the international normative framework according to bodies of law: general international law, International Humanitarian Law (IHL), International Human Rights Law (IHRL), and International Criminal Law (ICL).<sup>19</sup>

The specific provisions that apply in different types of armed conflict – whether in international (including occupation) and/or in non-international armed conflicts – are presented in Annex I.

### 2.3.1 Why the international normative framework matters

It is important for humanitarian practitioners to be familiar with the provisions and scope of the international normative framework and what these provisions mean in practice because:

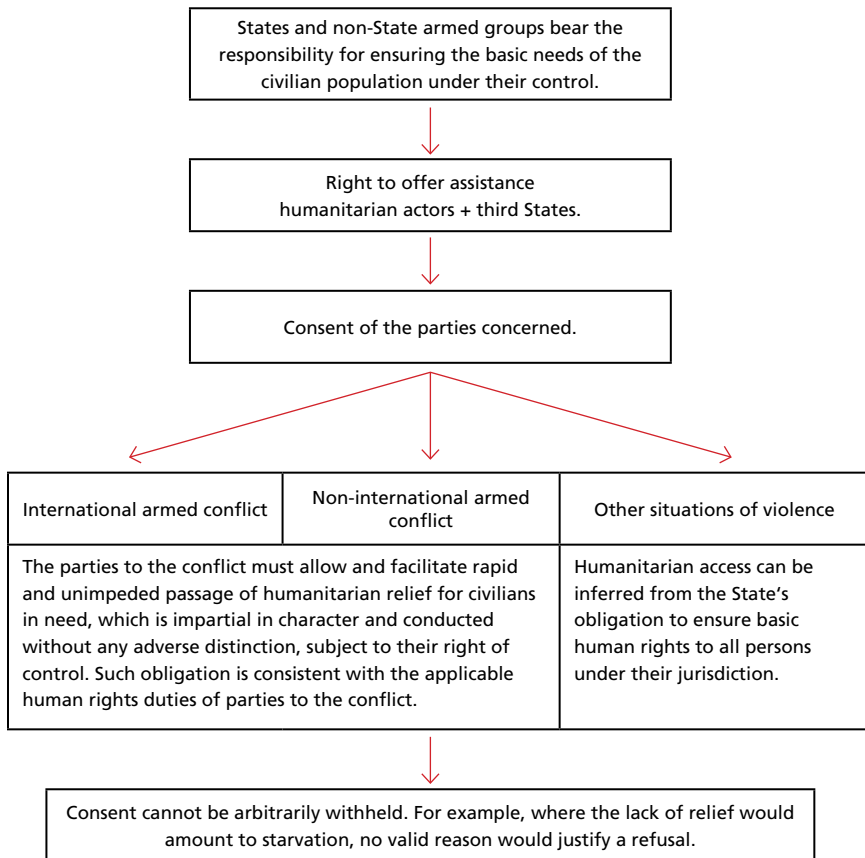
- The international normative framework specifies the duties and obligations of parties to armed conflict (States and NSAGs), third States not party to the conflict, humanitarian actors, and others concerning humanitarian access.
- The international normative framework identifies conditions under which humanitarian actors can access those not or no longer participating in hostilities who may be in need of assistance and protection, as well as the conditions under which humanitarian actors may not access those persons.

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<sup>19</sup> International refugee law, a set of rules that aims to protect persons seeking asylum from persecution, is not addressed in this Manual. Refugees and internally displaced persons (IDPs) are civilians and are protected by IHL and IHRL. International refugee law does not contain specific rules on humanitarian access. Therefore, it is not outlined in this Manual.

- Humanitarian practitioners frequently need to negotiate humanitarian access with parties to armed conflict or other actors. The international normative framework is an important tool for humanitarian negotiators to: (1) define boundaries within which to seek agreement on humanitarian access; (2) assist in generating options for operationalizing humanitarian access; and (3) provide incentives for parties to armed conflict and others to negotiate humanitarian access.
- The international normative framework provides a common, objective set of rules to which different actors can each or jointly refer.

**Figure 2 – Approach to humanitarian access within the international normative framework**



## 2.3.2 General international law and humanitarian access<sup>20</sup>

### What it is and when it applies

International law has three principal and interrelated sources: international treaties (written); customary international law (unwritten); and general principles of law (unwritten).<sup>21</sup>

International treaties are legally binding on States that are party to them.<sup>22</sup> One consequence of this rule is that different States involved in an armed conflict may be subject to different international law treaty rules. NSAGs cannot be party to international treaties. However, IHL provisions applicable during NIACs are binding both on States and NSAGs.

The existence of a rule of customary international law requires the presence of two elements, namely State practice and a belief that such practice is required, prohibited, or allowed as a matter of law.

Customary international law is important because States that are not party to a treaty may nonetheless be bound by some or all of its contents under customary law.<sup>23</sup> Customary rules of IHL applicable during NIACs are also binding on NSAGs.

Under international law, States bear the primary responsibility for ensuring the basic needs of civilian populations under their control. International law prohibits States from interfering directly or indirectly in the internal or external affairs of any other State where such interference threatens that State's sovereignty, territorial integrity, or political independence.<sup>24</sup>

The following instruments are useful in determining the rules of general international law pertaining to humanitarian access:<sup>25</sup>

- the Charter of the United Nations
- resolutions and presidential statements of the UN Security Council (UNSC)

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20 For more information on general international law, see Handbook Section 2.

21 The Statute of the International Court of Justice (ICJ) identifies a third source of international law, "the general principles of law recognized by civilized nations" (Article 38 para 1 lit. c). These principles may arise either through national or international law, and many are procedural or evidential principles. One example is the principle of good faith.

22 Under the law of treaties, only a State that has expressed its consent to a treaty is bound by it. Vienna Convention on the Law of Treaties (VCLT), 1155 U.N.T.S. 331, entered into force 27 January 1980, Art. 26.

23 The existence of a rule of international customary law requires the presence of two elements, namely, State practice and a belief that such practice is required, as a matter of law. See: Jean-Marie Henckaerts and Louise Doswald-Beck, *Customary International Humanitarian Law*, International Committee of the Red Cross (ICRC), Cambridge, 2005, Volume I, p. xxxii.

24 However, this principle cannot preclude application of enforcement measures by the United Nations under Chapter VII of the UN Charter.

25 UNSC resolutions are usually legally binding.

- decisions and precedents set by the International Court of Justice.

UN General Assembly (UNGA) resolutions, guiding principles, and declarations of international organizations are not legally binding and therefore considered “soft law.” UNGA resolution 46/182 (December 1991) on strengthening the coordination of emergency humanitarian assistance of the United Nations (UN) sets out guiding principles for humanitarian assistance and addresses the specific role of the UN with regard to humanitarian access.<sup>26</sup> The humanitarian principles set out in that and other UNGA resolutions are those presented in Section 2.2 as the other component of the foundations of humanitarian access.

A study of relevant UN normative developments pertaining to humanitarian assistance, including access, from 1991 to 2009, provides more details on the content of specific resolutions.<sup>27</sup>

### How general international law frames the approach to humanitarian access

The overall framing of humanitarian access under the relevant treaties and rules of general international law is based on the approach that:

1. **States bear the primary responsibility** for ensuring the basic needs of civilian populations placed under their control.<sup>28</sup>
2. International law **prohibits States from interfering directly or indirectly in the internal or external affairs of another State** where any such interference threatens the State’s sovereignty, territorial integrity, or political independence.<sup>29</sup>
3. Insofar as States provide relief assistance strictly respecting the principles of humanity, impartiality, and non-discrimination, an offer of relief action cannot be considered as an unlawful foreign intervention in the receiving State’s internal affairs.<sup>30</sup>

26 UNGA, Strengthening of the coordination of humanitarian emergency assistance of the United Nations, UNGA resolution A/RES/46/182 (19 December 1991).

27 United Nations, *Reference Guide: Normative developments on the coordination of humanitarian assistance in the General Assembly, the Economic and Social Council, and the Security Council since the adoption of General Assembly resolution 46/182*, Office for the Coordination of Humanitarian Affairs Policy Development and Studies Branch Policy and Studies Series VOL. 1 N°2 (New York: United Nations, 2009).

28 As described in the section on IHL below, in situations of occupation, this responsibility falls to the Occupying Power.

29 However, this principle cannot preclude application of enforcement measures by the United Nations under Chapter VII of the UN Charter.

30 See Handbook Section 2.2, and ICJ, Case concerning military and paramilitary activities in and against Nicaragua (Nicaragua v. United States), Merits, Judgement of 27 June 1986, para. 242.

### 2.3.3 International Humanitarian Law (IHL)<sup>31</sup>

#### What it is and when it applies

IHL is a set of rules that seeks, for humanitarian reasons, to limit the effects of armed conflicts. It protects persons who are not or no longer participating in hostilities and restricts the means and methods of warfare.<sup>32</sup>

IHL applies only in situations of armed conflict. It does not apply, for example, in situations of internal disturbance or tension such as riots. IHL distinguishes between two types of situations of armed conflict:

- International armed conflict (IAC) (including military occupation [OCC])<sup>33</sup>
- Non-international armed conflict (NIAC).

The criteria for distinguishing between the types of armed conflict are presented in Table 2.

**Table 2 – Criteria for determining the type of armed conflict**

International armed conflict (IAC)	Non-international armed conflict (NIAC)
<ul style="list-style-type: none"> <li>• Conflict between two or more States</li> <li>• Occupation (when a territory “is actually placed under the authority of the hostile army”)<sup>34</sup></li> </ul>	<ul style="list-style-type: none"> <li>• Conflict between a State and non-State organized armed group</li> <li>• Conflict between non-State organized armed groups</li> </ul>

IHL is binding both on States’ armed forces and NSAGs that are party to a NIAC.

Regardless of the type of conflict and whether a State is party to a particular treaty or not, parties to armed conflict are bound by customary IHL. Under customary IHL parties to the conflict must at a minimum respect the following rule with regard to humanitarian access:

“The parties to the conflict must allow and facilitate rapid and unimpeded passage of humanitarian relief for civilians in need, which is impartial in character and conducted without any adverse distinction, subject to their right of control.”<sup>35</sup>

31 For more information on IHL, see Handbook Section 3.

32 The main instruments of international law that contain provisions relevant to humanitarian access are: the four Geneva Conventions of 1949, and the two Additional Protocols to the Geneva Conventions of 1977.

33 The labels of “IAC,” “OCC,” and “NIAC” are used in the Tables in Annex 2 to identify to which types of situation of armed conflict the provisions apply.

34 See: Hague Regulations Concerning the Laws and Customs of War on Land, 18 October 1907, Art. 42.

35 ICRC Study on Customary International Humanitarian Law, Rule 55.

In addition, they must respect and protect humanitarian relief personnel and objects as well as “ensure the freedom of movement of authorized humanitarian relief personnel. Only in case of imperative military necessity may their movements be temporarily restricted.”<sup>36</sup>

Consent of the relevant authority is required in every type of conflict, but it may not be withheld arbitrarily.

### How IHL frames the approach to humanitarian access

The overall framing of humanitarian access under IHL is based on the approach that:

1. **In IAC, other than occupation:** States bear the primary responsibility for ensuring the basic needs of civilian populations under their control. If the population remains in need, third States or humanitarian organizations can offer relief assistance. Relief actions must be humanitarian and impartial, and conducted without any adverse distinction. Parties to armed conflict have an obligation to allow and facilitate relief assistance and access which respects these principles. This obligation is subject to the consent of the relevant State and right of control of the parties concerned. Consent cannot be arbitrarily withheld (i.e. without valid reasons).<sup>37</sup>
2. **In situations of occupation,** the Occupying Power has a clear obligation to ensure that the basic needs of the population under its control are met and, in situations where the population is inadequately supplied, to allow and facilitate relief actions.
3. **In a NIAC,** relief actions for the civilian population, which are of an exclusively humanitarian and impartial nature and which are conducted without any adverse distinction, shall be undertaken subject to the consent of the State concerned.<sup>38</sup> In addition, all parties must allow and facilitate the rapid and unimpeded passage of humanitarian relief for civilians in need, subject to their right of control.

**The conditions for humanitarian access under IHL** can be summarized as follows:

1. Relief actions must be humanitarian; they must be impartial, and must be conducted without any adverse distinction.
2. Relief action is subject to the consent of the parties to the conflict concerned. This consent cannot be arbitrarily withheld (i.e. a refusal must be based on valid reasons). In some situations, such as where the lack of relief would

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<sup>36</sup> Ibid., Rules 31, 32, and 56.

<sup>37</sup> The use of starvation of the civilian population as a method of warfare is specifically prohibited in IHL. Therefore, where the lack of relief would amount to starvation, there is no valid reason justifying a refusal of consent.

<sup>38</sup> Protocol II Additional to the Geneva Conventions of 1949 (AP II), Article 18.



amount to starvation (in particular when starvation is used as a method of warfare), no valid reasons can be invoked to justify the refusal of consent. In situation of occupation, the Occupying Power has an obligation to provide consent if it cannot ensure that the population is adequately supplied.<sup>39</sup>

3. Once relief action has been agreed to, the parties to the conflict must allow and facilitate rapid and unimpeded access to relief assistance.

In addition to the general framing of humanitarian access in IHL, the relevant treaties and customary rules contain additional provisions reinforcing the protection of specific groups within the population (e.g. children under 15 years, expectant mothers) as well as to specific situations (e.g. starvation).<sup>40</sup>

The specific provisions of IHL pertaining to humanitarian access are presented in table form in Annex 1.

### IN FOCUS

#### **Legal obligations related to operations of private military and security companies (PMSCs) during armed conflict**

Whether to negotiate humanitarian access or as a security and logistical measure, humanitarian organizations may need to engage with PMSCs.<sup>41</sup>

In response to the increasing and changing role of PMSCs, the Government of Switzerland and the ICRC sought to provide guidance on a number of thorny legal and practical points, on the basis of existing international law. As a result, the Montreux Document (2008) on pertinent international legal obligations and good practices for States related to operations of PMSCs during armed conflict recalls notably that:<sup>42</sup>

“PMSCs are obliged to comply with international humanitarian law or human rights law imposed upon them by applicable national law.

39 In his November 2013 report to the UNSC on the Protection of Civilians in Armed Conflict, the UN Secretary-General asked UNOCHA to examine, in consultation with relevant stakeholders, the question of the “arbitrary withholding of consent to relief operations,” including its consequences, and to consider options to provide greater clarity in this area. At the time of the publication of this Manual, these consultations were underway.

40 These additional provisions are described in detail in the Handbook Section 3.

41 Note that any engagement of military or security groups may affect the perception of a humanitarian organization as a neutral actor, especially in a conflict setting.

42 Swiss Federal Department of Foreign Affairs (FDFA) and International Committee of the Red Cross (ICRC), The Montreux Document on pertinent international legal obligations and good practices for States related to operations of private military and security companies during armed conflict (Bern and Geneva: FDFA and ICRC, August 2009). Available at: <http://www.eda.admin.ch/etc/medialib/downloads/edazen/topics/intla/humlaw.Par.0078.File.tmp/Montreux%20Broschuere.pdf> [accessed 23 August 2014].

“The personnel of PMSCs: are obliged, regardless of their status, to comply with applicable international humanitarian law.”<sup>43</sup>

Before having recourse to private security services, humanitarian organizations should make sure that the PMSC they contract is adequately regulated under Territorial and Home State(s)’ national law and that its personnel has been trained to respect relevant provisions under national law, IHL, and human rights law.

On a parallel basis to the Montreux Document, the private security sector is encouraged to endorse the International Code of Conduct for Private Security Service Providers (ICoC) which aims to clarify international standards for the private security industry operating in complex environments, as well as to improve oversight and accountability of these companies.<sup>44</sup>

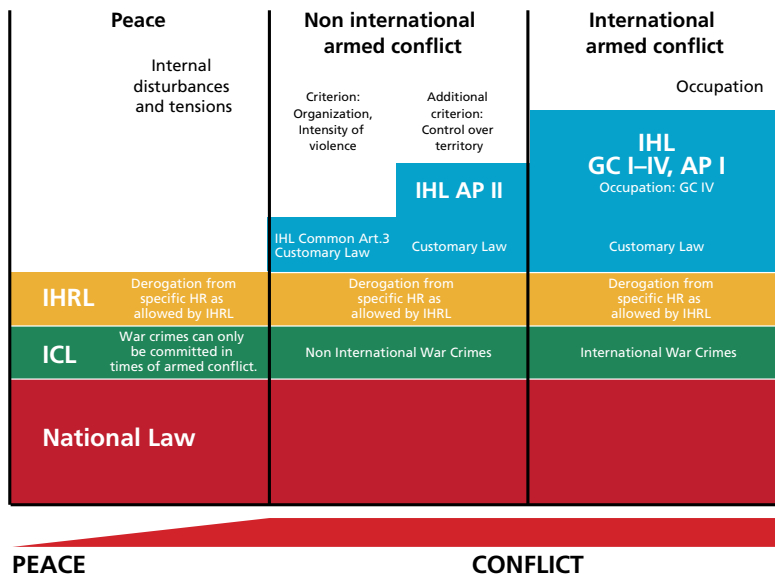
*Observations:* Humanitarian organizations that use the services of PMSCs can help ensure legal compliance by assessing their ability to comply with international duties and obligations under international law. Organizations should carefully monitor compliance throughout their contract.

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<sup>43</sup> According to the Montreux Document, the status of the personnel of PMSCs is determined by IHL on a case-by-case basis, in particular according to the nature and circumstances of the functions in which they are involved, i.e. their direct participation in the armed conflict or not (see paragraph 24).

<sup>44</sup> The ICoC is a Swiss Government-convened, multi-stakeholder initiative. The ICoC sets out human rights-based principles for the responsible provision of private security services. These include rules for the use of force, prohibitions on torture, human trafficking, and other human rights abuses, and specific commitments regarding the management and governance of companies, including how they vet personnel and subcontractors, manage weapons, and handle grievances internally.

**Figure 3 – Applicable law according to situation**



### 2.3.4 International Human Rights Law (IHRL)<sup>45</sup>

#### What it is and when it applies

Human rights are rights inherent to all human beings, whatever their nationality, place of residence, sex, national or ethnic origin, colour, religion, language, or any other status. IHRL lays down obligations of States to act in certain ways or to refrain from certain acts, in order to promote and protect human rights and fundamental freedoms of individuals.<sup>46</sup> It is primarily States which must respect, protect, and fulfil these rights.

IHRL applies at all times and therefore continues to apply, alongside IHL and ICL, during situations of armed conflict. Some human rights may be derogated in times of emergency, which means that the State may in certain conditions suspend, for a limited period, full respect of a number of rights.<sup>47</sup>

<sup>45</sup> For more information on IHRL, see Handbook Section 4.

<sup>46</sup> The definitions of human rights and IHRL are drawn from those used by the United Nations Office of the High Commissioner for Human Rights. Available at: <http://www.ohchr.org/en/issues/pages/whatarehumanrights.aspx> [accessed 23 August 2014].

<sup>47</sup> International Covenant on Civil and Political Rights (ICCPR) (1966), Art. 4; European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR) (1950), Art. 15. Derogation clauses aim at striking a balance between protection of individual human rights and the protection of national needs in times of crisis by placing reasonable limits on emergency powers.

**Table 3 – Scope of application of IHL and IHRL**

Scope of application of IHL	Scope of application of IHRL
Purpose of IHL: Limit the effect of armed conflicts by protecting persons not or no longer participating in hostilities, and restricting the means and methods of warfare	Purpose of IHRL: Lay out obligations of States to act in certain ways or to refrain from certain acts, in order to promote and protect human rights and fundamental freedoms of individuals
Applicable in armed conflicts only	Applicable at all times
Applicable to both States and non-State actors	Applicable primarily to States

### How IHRL frames the approach to humanitarian access

In general, the main instruments of IHRL do not refer expressly to humanitarian access. Some general references are found in certain treaties identified in Annex II (and Handbook Section 4.2). However, human rights treaties offer a legal framework indirectly, through certain key rights, such as the right to life; the prohibition of torture and other cruel, inhuman, or degrading treatment or punishment; the right to food; the right to water; the right to health; the right to housing; and the principle of non-discrimination.

Shortage or lack of essentials such as food, water, or health care is often closely linked to a lack of protection of corresponding human rights.

Therefore, in situations where humanitarian access, as a key enabler of humanitarian assistance, is a direct factor in the realization of certain fundamental rights, then IHRL can provide a framework for humanitarian access. In short, **a strong causal link must exist between humanitarian access and fulfilment/realization of core human rights**. For example, in situations where the civilian population is not adequately supplied, then fulfilment and realization of the right to life, food, water, and health, among others, may be critically dependent on humanitarian access.

The overall framing of humanitarian access under IHRL is based on the approach that:

1. Insofar as humanitarian access directly affects availability of essential goods/supplies such as food, water, and health care, it can be considered a critical element in fulfilment of the corresponding rights.
2. A State that claims it is unable to fulfil its legal obligations for reasons beyond its control must show that it has made every endeavour to use all resources at its disposal in an effort to satisfy those minimum obligations.<sup>48</sup>

<sup>48</sup> In determining whether a State is truly unable to fulfil its obligations under human rights law, it is necessary to consider both the resources existing within a State and those available from the international community.

### Government denial of armed conflict exacerbates access challenges

Between 2006 and 2011, a State denied the existence of an armed conflict, and therefore the applicability of IHL, in one part of its territory even though some humanitarian organizations believed that the intensity and scale of the conflict, as well as militant groups' organization and territorial control, constituted a NIAC.

The government claimed that it was not a conflict and thus described its actions as law enforcement operations. On this basis, the government denied at least some attempts to gain humanitarian access to those affected by the violence, detainees in particular.

The government's denial of armed conflict limited the ability of humanitarian actors to use IHL as an advocacy tool. However, IHL is not the only international legal instrument which can facilitate access. International, as well as domestic, human rights law, noting the State's ratification of the International Convention on Civil and Political Rights, as well as the United Nations Convention against Torture, was particularly relevant regarding the treatment of detainees. These instruments provide, among other protections, legal protection of detainees from physical and mental harm, for one's dignity, and for procedural fairness.

*Observations:* The ability of humanitarian organizations to use IHL to gain access to victims of conflict depends upon whether the situation can be classified as an armed conflict and to an extent upon the willingness of the State to accept that the situation constitutes one of armed conflict. However, when a State denies the existence of an armed conflict, humanitarian organizations can draw upon other legal instruments or frameworks that apply also outside situations of armed conflict to support their efforts for access.

## 2.3.5 International Criminal Law (ICL)<sup>49</sup>

### What it is and when it applies

ICL encompasses rules that prohibit certain conduct and make perpetrators accountable for violating these rules. States have the responsibility to protect their

<sup>49</sup> Regarding ICL, see Handbook Section 5.

populations from those crimes and must therefore ensure the prosecution of the perpetrators of such crimes at the national or, if necessary, the international level.

The Rome Statute of the International Criminal Court (ICC) (1998) is an important international agreement that includes provisions concerning humanitarian access. However, the body of ICL also includes other international treaties and agreements.<sup>50</sup>

International crimes include war crimes, crimes against humanity, genocide, and the crime of aggression. ICL applies at all times, with the exception that war crimes can only be committed in times of armed conflict.

The denial of humanitarian access may constitute a crime under ICL. Examples include the war crimes of starvation and of launching attacks against persons involved in humanitarian assistance.

### How ICL frames the approach to humanitarian access

The overall framing of humanitarian access under the relevant treaties and rules of ICL, including the Rome Statute of the ICC, is based on the approach that:

1. Intentional obstruction or denial of humanitarian access may constitute a crime under international law.
2. A **war crime** is a serious violation of IHL.<sup>51</sup> A **crime against humanity** is an act or omission committed as part of a widespread or systematic attack directed against the civilian population, whether or not the situation is an armed conflict.<sup>52</sup> For obstruction or denial of humanitarian access to be considered a war crime or a crime against humanity, **it would have to be shown that the obstruction/denial was intentional.**
3. Direct attacks against humanitarian workers can amount to a grave breach of IHL and therefore constitute a war crime.<sup>53</sup>
4. For the **denial or obstruction of humanitarian access to constitute genocide**, the denial must amount to or result in one of the acts identified in the definition of genocide and must be directed against a national, ethnical, racial, or religious group, as a group. In addition, the perpetrator must have the intent to destroy the group in whole or in part.

50 For example, the Geneva Conventions, their First Additional Protocol, the Convention on the Prevention and Punishment of the Crime of Genocide, or customary international law are other relevant sources of ICL.

51 Rule 156, Customary IHL, ICRC's Study: [http://www.icrc.org/customary-ihl/eng/docs/v1\\_rul\\_rule156](http://www.icrc.org/customary-ihl/eng/docs/v1_rul_rule156) [accessed 23 August 2014].

52 List of acts: see article 7 of the Rome Statute.

53 Willful killing, causing serious injuries, etc. See article 147 GC IV. Directing attacks on humanitarian personnel in an IAC also constitutes a war crime according to the Rome Statute.

5. **ICL reinforces IHL and IHRL** in a number of ways, including by criminalizing war crimes, crimes against humanity, and genocide.
6. It is the primary responsibility of States to investigate and prosecute international crimes. When they are unable or unwilling to do so, an international tribunal, such as the ICC – if and when competent – could be seized of the matter.

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

National legal and traditional or customary rules and norms can each be relevant to humanitarian access in a number of ways, and sometimes not in the same ways, including (1) as they relate to the international normative framework and (2) as stand-alone rules and norms that can present both opportunities and challenges for access.

One important aspect of national legislation in particular is that delivery of humanitarian assistance and protection is subject to the national laws in force in the territory of a State.

#### **National legal, traditional, and customary rules and norms as they relate to the international normative framework**

National legal, traditional, and customary rules and norms can usefully reinforce the international normative framework relating to humanitarian access, when those rules and norms are consistent with or exceed the scope of the provisions of the international normative framework. By becoming familiar with the relevant rules and norms, humanitarian practitioners can identify those that can be most relevant to or can be used as another part of the foundations for access.

For example, in conducting humanitarian negotiations to assist in securing access by nomadic communities to water sources for their livestock, humanitarian practitioners might look at traditional migration routes and the customary rules allowing nomadic communities to pass through others' land.

However, in all situations, care must be taken to have sufficient knowledge of how national legal, traditional, and customary rules and norms operate and are perceived in the particular communities.

Using national legal, traditional, and customary rules and norms as a reinforcing part of the foundations for humanitarian access can be particularly helpful in situations when, for example:

- **Actors influencing humanitarian access do not recognize or accept the core humanitarian principles or the international normative framework.**

This can be for cultural, religious, ideological, or legal reasons. For example, some NSAGs may reject that they have duties and obligations under IHL because they cannot enter into international treaties and because they feel they do not have the possibility to formally contribute to the development of such instruments. In these cases, it can be particularly useful to (1) focus on customary practice of the NSAG or other NSAGs (as well as that of States) and (2) look into the codes of conduct, field manuals, or other documents of the NSAG to identify rules and norms that are consistent with the international normative framework and can therefore be referred to as part of the basis and justification for humanitarian access.

- **Actors influencing access are more likely to accept traditional and customary norms as a basis for humanitarian access.**

In situations where actors influencing access may be more willing and likely to act in accordance with traditional and customary rules and norms than with the international normative framework, which may be perceived as being imposed from “outside,” humanitarian practitioners can carefully identify the relevant traditional/customary rules which can provide a basis and argument in favour of humanitarian assistance and access.

In these situations additional care must be taken to have sufficient knowledge of how traditional and customary rules and norms have operated and have been perceived. This is because these rules and norms are frequently not written and are communicated in some societies through verbal, story-telling, music, and other non-written media.

- **Actors influencing access reject the international normative framework but are willing or obliged to work in the context of the national legal framework.**

In situations where actors reject or dispute the applicability of the international normative framework to their situation of armed conflict, the national normative framework may be persuasive as a rationale for encouraging the relevant actors to facilitate humanitarian access. This is particularly true in situations where State actors influencing access may reject international resolutions and decisions, but may be obliged to work in accordance with domestic laws and decisions, including, for example, decisions of national courts.

The essence of the approaches which humanitarian practitioners can take in such situations is to look carefully into the details of the international normative framework and the details of national laws, traditional and customary rules and norms to



identify areas of convergence and alignment. Humanitarian practitioners can then “tap into” the areas of convergence and use them as a foundation, practically incorporating them into negotiations and other activities, to secure and sustain access.

In addition to identifying areas of convergence between national laws and traditional and customary norms and the international normative framework, humanitarian practitioners can identify and assess areas of divergence.

When national laws, traditional and customary rules and norms run counter to the international normative framework, the humanitarian principles, and/or organizational policies or core values, humanitarian practitioners may find that they are facing a dilemma when working to implement certain activities for humanitarian access. In these cases, humanitarian practitioners can apply the points of guidance presented in Section 4: Dilemmas of Humanitarian Access.

#### IN FOCUS

##### **Areas of convergence between religious norms and international humanitarian law**

Religious norms – whether arising from Christianity, Hinduism, Buddhism, Islam, Judaism, or any other religion – may variously share some common concepts with IHL and/or may also approach some areas of armed conflict, protection of civilians, and access differently.

Some areas in which religious norms relate closely to rules of IHL include those where the specific religions in their sacred texts and teachings:

- Uphold the sanctity of life as a general principle, and give primacy to the concept of protection of human life, particularly of noncombatants.
- Respect and protect a person’s dignity.
- Emphasize compassion and encourage humane treatment of persons, including enemy combatants in conflict situations.
- Differentiate between combatants and noncombatants.
- Protect the sources of survival for the population, such as agricultural areas, trees, and water resources.
- Protect places of worship.

Some areas in which religious norms may deviate from the rules of IHL, depending on the religion, include areas where:

- A specific religion identifies the source of its legitimacy as divine. IHL is created and legitimized by States, it is law made by people, and is regulated through international treaties and custom.
- A specific religion supports a particular view on the legitimacy of conflict. IHL focuses on the conduct of conflict and not on the legitimacy of conflict or its legality or illegality.
- A specific religion positively discriminates in its sacred texts and teachings towards followers of that religion. IHL does not differentiate between people on the basis of religion.
- A specific religion differentiates between fighting followers/believers of that religion versus fighting non-followers/non-believers. IHL only differentiates between combatants and noncombatants.

### **National legal, traditional, and customary norms as stand-alone rules and norms**

National legal, traditional, and customary rules and norms can present challenges as well as opportunities as stand-alone rules and norms (separate from their relationship to the international normative framework) in efforts to secure and sustain humanitarian access.

National laws, rules and procedures can be designed and/or implemented in such a way as to make it more difficult for humanitarian organizations to enter into – and work in – the territory of a State. Sometimes the constraints arising from national laws, rules, and procedures are unintentional, as in situations where the sudden onset of an emergency makes it difficult for national authorities to process a large number of visas or work permits. However, these national laws, rules, and procedures can also be used intentionally as a way of restricting access by humanitarian organizations/practitioners to populations in need in all or parts of the territory.

Similarly, traditional and customary rules and norms can present constraints and opportunities for humanitarian access. For example, in northern Nigeria the traditional, unofficial power structure is strong, requiring humanitarian organizations to recognize and engage with both the official and traditional structures in their efforts to secure and sustain access.

When working in situations where national laws, traditional and customary rules and procedures can affect humanitarian access, humanitarian practitioners can:

- Gain a thorough understanding of the national laws, traditional and customary rules and norms in the context, particularly as they relate to humanitarian assistance and access. This can be achieved by speaking with the relevant actors and gaining their perspectives, as well as by engaging lawyers experienced in the context and individuals knowledgeable of the context. In the case of national laws, this may include legislation and procedures around the entry and movement of personnel and goods to and within the country.
- To the greatest extent possible, and when they are not in opposition to the humanitarian principles and the international legal framework, work in accordance with national laws, traditional and customary rules and norms. Humanitarian organizations should dedicate adequate resources at the headquarters and field levels for doing so.
- When national laws, traditional and customary rules and norms are in conflict with the international legal framework:
  - Use the relevant provisions of the international normative framework, internally, to focus in on where exactly the conflict with national laws, traditional and customary rules and norms may exist.
  - Where possible, gain an understanding of the motivations and rationale underpinning the national laws, traditional and customary rules and norms that are in conflict with the international normative framework; this can illuminate interests of parties that influence humanitarian access.
  - Use the motivations and rationale underpinning the international normative framework to explain in negotiations and other interactions the potential benefits of certain rules and norms.
  - Identify points of connection that may exist in the motivations and underlying rationale for the international normative framework and that for national laws, traditional and customary rules and norms. This may help to illuminate areas of common interest in negotiations on humanitarian access at a level below actual stated rules and norms.
- Work with national authorities to ensure decisions regarding visas and work and travel permits are communicated within the national authorities at various levels (e.g. from national to regional territorial level) and across branches/ services of the State (e.g. from the Ministry of Foreign Affairs or Immigration to the relevant security services).

Lastly, national law can present opportunities for securing and sustaining humanitarian access because they can provide a broader framework and better protection for people in need (who are subject to the national laws) than that provided through the international normative framework. In viewing it as such, humanitarian practitioners can – using the national legal framework – seek to exceed the minimum thresholds and requirements in their activities to secure and sustain humanitarian access.

### 2.3.7 Using the international normative framework

The international normative framework can best assist in securing and sustaining humanitarian access when the relevant provisions of different bodies of treaty-based and customary international law are used to reinforce each other.

If provisions of one body of international law (e.g. IHL) seem not to apply to humanitarian access in a particular setting, or are disputed, other bodies of law (e.g. IHRL) may contain provisions that relate to humanitarian access.

Humanitarian practitioners should therefore seek to build a **framework of multiple layers** that supports (their) efforts to secure and sustain humanitarian access in a particular setting.

The international normative framework does not, however, provide humanitarian organizations with access at all times and in all settings. Certain criteria must be satisfied and conditions may need to be met before access is secured. For example, if the State or a NSAG can provide sufficient assistance to the civilian population to cover all needs, the refusal of access to humanitarian organizations might not be contrary to international law.

Lastly, it is important to note that the international normative framework provides a minimum basis or threshold for humanitarian access and delivery of humanitarian assistance and protection.

## The international normative framework as access leverage in Darfur, Sudan

Humanitarian practitioners can effectively use international law in negotiations with governments or NSAGs to gain access to populations in need. This is especially true when it is in a group's interest to act in accordance with the relevant provisions of the international normative framework. Even if the group is a non-State actor, and even when it has no apparent interest in improving the humanitarian situation in its area of control, international law can offer points of leverage.

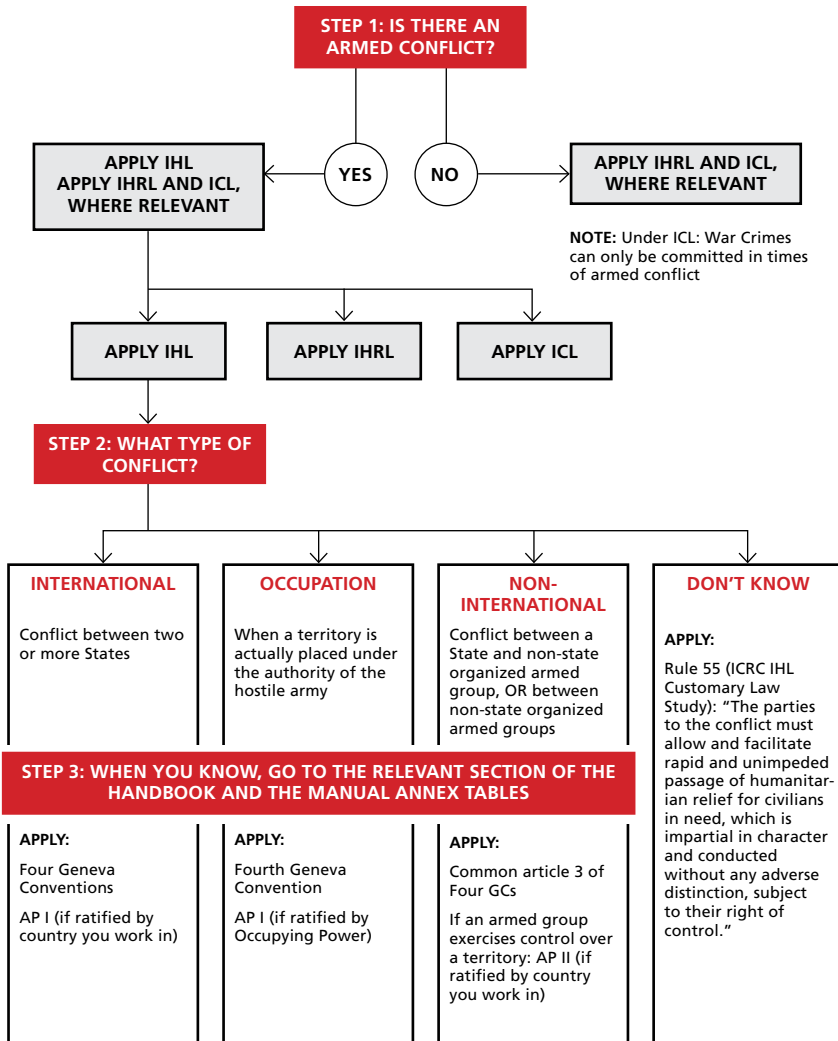
In Darfur, Sudan, during 2006, members of one of the many factions of the Sudan Liberation Movement/Army (SLM/A) saw that it was in its interest to allow humanitarian access to the population in the territory under its control. Notably, against the backdrop of the ICC's scrutiny of Darfur since early 2005, the faction was keen to appear to be acting in accordance with international law. This interest served as an effective means by which humanitarian organizations could gain entry and leverage for access negotiations.<sup>54</sup>

*Observations:* It can be in the interests of NSAGs to comply with international legal norms. If humanitarians can identify these interests and use them as points of leverage, they are more likely to succeed in engaging and negotiating access with NSAGs.

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54 A number of initiatives have sprung up since the early 2000s to foster and encourage NSAGs' ownership of international legal norms. For example, the UN involves representatives of the UN with governments and with NSAGs, respectively, to develop "action plans" for halting certain grave violations against children, such as use and recruitment of children as combatants, and sexual violence against children in the context of armed conflict (see UNSC Resolution 1612, 2005). The NGO Geneva Call has also developed "Deeds of Commitment" intended to gain non-State actors' adherence to a total ban on anti-personnel mines, to protect children from the effects of armed conflict, and to protect against sexual violence, towards the elimination of gender discrimination, and an increased participation of women in decision-making processes.

Figure 4 – How to determine the applicable international legal framework





# Methodology

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# 3.1

## Overview

This section presents the methodology for developing and implementing a structured approach to securing and sustaining humanitarian access in situations of armed conflict. The methodology guides practitioners through a process of analysis, design, and implementation of options for humanitarian access which can be formulated as a strategy or in other formats. The methodology and resulting options and approaches are built on the foundations of the core humanitarian principles and the international normative framework presented in Section 2.

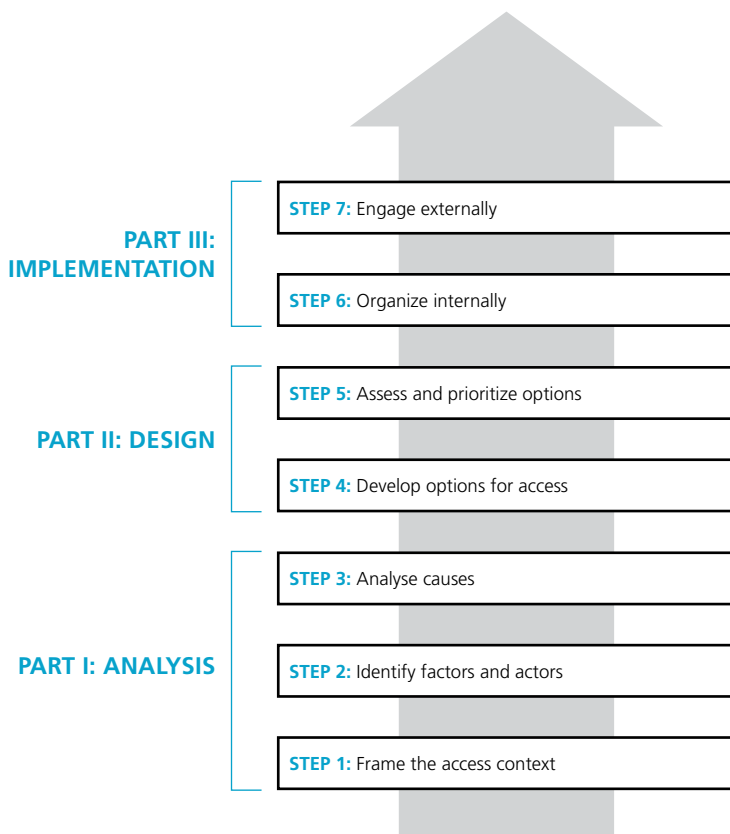
Practitioners can use this methodology to develop various products or outputs related to humanitarian access, such as:

- context- or organization-specific access strategies
- multi-agency coordinated access plans or strategies
- internal (organizational) guidance notes
- inputs to negotiation strategies and agreements on access
- action plans to implement specific strategies.

The methodology consists of seven steps organized in three parts, as shown in Figure 5.



Figure 5 – Methodology consisting of seven steps in three parts



Monitoring and evaluation (M&E) is integral to this methodology. Effective M&E provides information vital to adapting approaches to humanitarian access. Because this methodology is designed to improve humanitarian access and therefore humanitarian conditions, practitioners should consider establishing systems for monitoring and evaluating (1) the situation of access and (2) humanitarian conditions. For further guidance see “In Focus: Monitoring and Evaluation” below.

## IN FOCUS

## Monitoring and Evaluation

Integrating an M&E framework into an access approach from beginning to end can provide valuable information to gauge success, identify weaknesses, and make appropriate adjustments. In setting up systems for M&E, practitioners can consider the points below.

### Monitoring

- **Indicators.** Using indicators, both quantitative and qualitative, to track factors that constrain or enable access can assist practitioners in identifying circumstances and trends, and evaluating changes in access over time. For further guidance, see Annex III.
- **Qualitative information.** Complementing indicators with further qualitative information can enhance the analytical process. Practitioners can consider networking, questionnaires, media, public statements, and other sources.
- **Baseline data.** Establishing baseline information through indicators and descriptive methods is critical to measuring progress. Practitioners can use the “parameters” as described in Step 1 to describe a baseline situation of access. It can be useful to undertake assessments or surveys early on and, if possible, prior to an intervention.<sup>55</sup>
- **Monitoring assumptions.** During the process of developing and assessing options, practitioners will likely make assumptions related to, for example, security, relevance of negotiating with a particular actor, feasibility of an option, and others. Monitoring these assumptions, and adjusting accordingly, can be critical to the effectiveness of an access approach.
- **Technology.** Taking advantage of technological opportunities, such as GPS mobile phone mapping, can assist in setting up an effective monitoring system.

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<sup>55</sup> Gathering baseline data is also possible retrospectively where data gathering at the beginning of an intervention is not possible. In such cases, surveys and rapid assessments ask respondents backward-looking questions and gather circumstantial evidence to reconstruct a picture of what access looked like prior to implementation.

## Evaluation

Common criteria for evaluating progress towards securing or sustaining access include:

- **Appropriateness** – how well the access approach is suited to the (local) context;
- **Effectiveness** – how well a specific activity has achieved its objective(s);
- **Efficiency** – a measure of the outputs achieved as a result of inputs;
- **Connectedness** – the extent to which short-term steps take longer-term and interconnected problems into account;
- **Impact** – the extent to which the approach leads to improvement in delivering assistance and protection and meeting the needs of affected people;
- **Coherence** – the extent to which the access approach is consistent with internal policies and external realities;
- **Coordination** – the extent to which different actors' interventions promote synergy and avoid gaps and duplication;
- **Sustainability** – the extent to which the access approach facilitates longer-term access.

# 3.2

## Methodology PART I – Analysis

Analysing the context and the factors and actors influencing access is an iterative process which informs practitioners in developing and implementing options. The analysis part of the methodology consists of three steps:

- Step 1: Frame the access context.
- Step 2: Identify factors and actors.
- Step 3: Analyse causes.

### Step 1: Frame the access context

Framing the access context involves the following activities:

- Determine the type of armed conflict.
- Analyse the conflict.
- Assess humanitarian needs.
- Determine the parameters of access.

By framing the access context, humanitarian practitioners can identify and define the specific and relevant aspects of the working environment as it pertains to access.

#### Determine the type of armed conflict

Determining the type of armed conflict is the starting point for determining the provisions of the international normative framework that apply and therefore the duties and obligations of parties to the conflict and others concerning humanitarian access.

To determine the type of armed conflict practitioners can:

- Identify the types of actors involved in the armed conflict (i.e. State actors and/or non-State armed actors).
- Use the criteria presented in Table 2 to determine whether it is a situation of international or non-international armed conflict.
- In situations of IAC, determine if all or part of a territory is "... actually placed under the authority of a hostile army." If yes, then it constitutes a situation of occupation.

- In situations of NIAC, determine, where possible, if the NSAGs have effective control over territory.

For further guidance on determining the type of armed conflict, refer to Section 2.3 on the international normative framework and the Handbook.<sup>56</sup>

### Analyse the conflict

There are many approaches to analysing armed conflicts. Practitioners can use one or a number of these approaches to gain a better understanding of the conflict. Some specific areas within these approaches to conflict analysis that are of particular relevance to humanitarian access, include those that:

- Use “stakeholder analysis” methods because they can identify several aspects of the different stakeholders, including their interests, influences, and locations. This can provide a basis for identification of actors which is Step 2 of the methodology.
- Use “systems analysis” methods because they can help identify the different parts of a “system” (e.g. the overall conflict) and how they relate together. This can provide the foundation for identification of factors in Step 2 of the methodology.
- Identify “drivers of change” in situations of conflict, as this can be helpful in relationship and influence mapping (see Step 2) and in identification of causes of different effects relating to access.

The above areas represent just a sample of those available to practitioners. Wherever possible, practitioners should draw on existing conflict analyses – subject to their quality and validity – and draw from them the elements that will be most relevant for this methodology.

### Assess humanitarian needs

Understanding the humanitarian needs of populations in situations of armed conflict is essential to this methodology. This knowledge helps practitioners to:

- Define the purpose for seeking access, which is always related to meeting humanitarian needs.
- Guide the development and prioritization of options for access in Steps 4 and 5.
- Assess the potential benefits (humanitarian impact) of taking risks or weighing trade-offs in pursuing access (see Section 4: Dilemmas).

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<sup>56</sup> See Handbook Section 1.2.

There are many approaches, systems, and tools already in existence for assessing humanitarian needs. A selection of these resources, including those related to coordinated needs assessments, is identified in Annex V.

### IN FOCUS

#### **Record keeping and institutional memory**

This methodology promotes a thorough and iterative approach to humanitarian access. It is therefore essential for practitioners to record the process of developing options, decisions, and outcomes. Good record keeping serves the following purposes related to developing and implementing an effective approach to access:

1. Informing and facilitating the analytical process.
2. Increasing efficiency and reducing time wastage. Quick access to the information gathered, ideas generated, and decisions previously made can help teams pick up where they left off, and can help compensate for staff turnover.
3. Facilitating internal communication by fostering consistency and clarity regarding the rationale for decisions.
4. Facilitating programme monitoring and laying the groundwork for evaluating the access approach and its humanitarian impact.
5. Supporting institutional learning and memory, which can potentially positively impact other programmes within and outside the organization.

#### **Determine the parameters of access**

Six parameters are presented below as the basic elements practitioners can use to describe the current or baseline situation of access. Practitioners can also use the parameters to describe the desired status of access that they aim to achieve (see also Step 4). The parameters are outlined in Table 4.

The parameters facilitate the analytical process and the development of options by clarifying the scope and form of access. The parameters can also help clarify the provisions of the international normative framework that may apply in the particular context (see section 2.3 and Annex I).

**Table 4 – Six parameters of humanitarian access**

PARAMETER	DESCRIPTION
<b>Access FOR WHAT PURPOSE</b>	The purpose of access is what practitioners seek to accomplish through access. The purpose can include, for example: <ul style="list-style-type: none"> <li>• undertaking a needs assessment to determine the humanitarian needs of affected people;</li> <li>• securing medical treatment or medicine for a specific group;</li> <li>• providing shelter to a displaced group;</li> <li>• ensuring affected people receive essential supplies.</li> </ul>
<b>Access BY WHOM</b>	This parameter identifies the people or humanitarian organizations having or seeking access: <ul style="list-style-type: none"> <li>• BY humanitarian organizations to provide assistance and protection to people in need;</li> <li>• BY people in need of assistance and protection to receive essential goods and services.</li> </ul>
<b>Access TO WHOM</b>	This parameter identifies the people to whom access is being sought: <ul style="list-style-type: none"> <li>• TO people in need of humanitarian assistance and protection;</li> <li>• TO humanitarian personnel or others able to provide needed assistance and protection.</li> </ul>
<b>Access TO WHAT</b>	This parameter defines the precise items or services that are intended to meet the identified humanitarian need. It can include such things as: <ul style="list-style-type: none"> <li>• TO food, medical, or other essential supplies;</li> <li>• TO services essential for the survival and health of people in need.</li> </ul>
<b>Access WHERE</b>	This parameter captures the geographical or facility-related dimension of access, and can include: <ul style="list-style-type: none"> <li>• TO a camp for internally displaced persons;</li> <li>• TO an area where people in need are seeking refuge;</li> <li>• TO an area affected by conflict under the control of a specific party.</li> </ul>
<b>Access WHEN</b>	This parameter captures the frequency and timing of access, including for example: <ul style="list-style-type: none"> <li>• immediately, due to the acute needs of the affected population;</li> <li>• at regular intervals to provide consistent medical care;</li> <li>• between harvest times to meet nutritional needs.</li> </ul>

## Step 2: Identify factors and actors

The second step in the methodology is to identify the factors and actors influencing humanitarian access, and the relationships between them. This step includes the following activities:

- Identify the factors influencing access.
- Identify and understand the actors influencing access.
- Map relationships between actors.

## Identify the factors influencing access

A factor can be anything that influences access directly or indirectly. Factors may have a **positive enabling** influence on access, or a **negative constraining** influence. Factors may be **external** to the organization, such as ongoing hostilities, or they may be **internal**, such as the organization's security rules and procedures.

### IN FOCUS

#### Tapping knowledge and generating ideas

Throughout this methodology, practitioners are challenged to tap into existing knowledge or come up with new insights and ideas. The following two complementary methods may assist the process:

##### 1. Brainstorming

Brainstorming can be a rapid and effective way to draw out practitioners' knowledge and experience, or generate ideas. It is usually most effective when conducted with several practitioners together, at least some of whom are knowledgeable of the relevant context. Brainstorming should be open minded and creative, but can also be guided by a team leader, for example, towards the most relevant and useful information or ideas.

##### 2. Researching

It can be helpful to seek information and inspiration from a wide range of possible sources. This may involve, for example, surveying colleagues or peers within the organization and/or in other organizations, consulting representatives of the target population, checking reports and other publications, and checking on precedents of what was tried and tested in the same or other contexts.

Gaining the required information through research may take considerable time and effort. Practitioners may also have to weigh a number of considerations, such as the level of detail of the required information, accessibility and reliability of information, and the risks involved in obtaining the information.

At the outset, it can be useful for practitioners to consider a wide range of factors which can be narrowed down or grouped at a later stage. "Security environment," for example, is a general factor with numerous potential related sub-factors. While the factors affecting humanitarian access will vary greatly from context to context,



some factors that frequently occur in situations of armed conflict are presented in Table 5 below. Each of these factors will have various actors associated with them.

**Table 5 – Frequently encountered factors that constrain or enable humanitarian access**

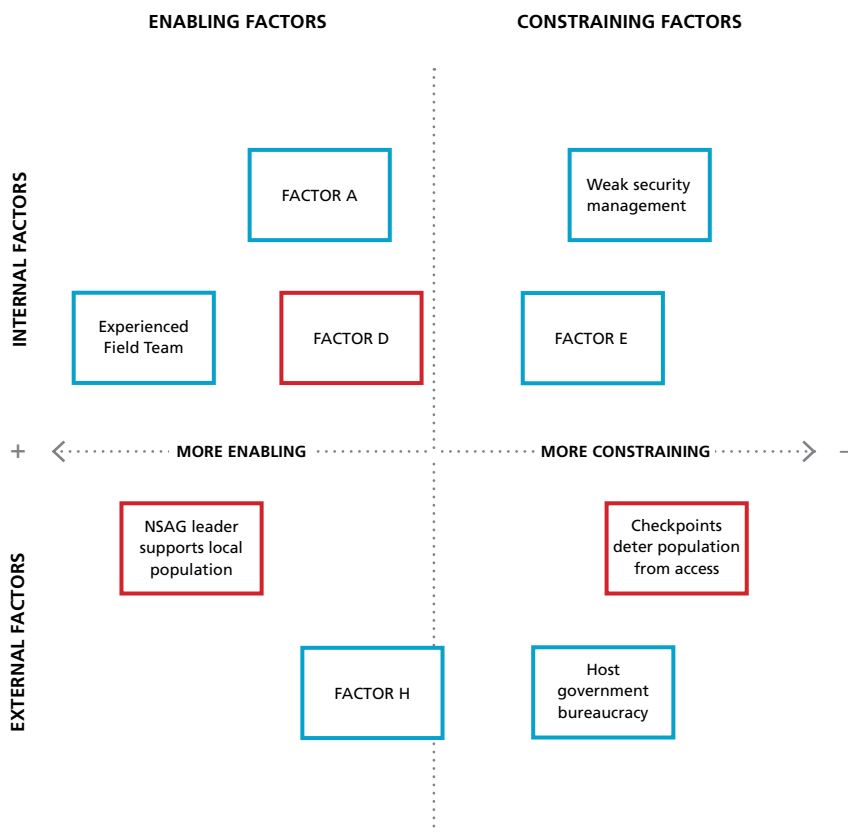
Constraining Factors <sup>57</sup>	Enabling Factors
Denial of the existence of humanitarian need by authorities	Recognition of humanitarian need and support by authorities and other actors with control or influence over access
Restriction of movement of humanitarian agencies, personnel, or goods into the affected country and other bureaucratic impediments	Relatively few (bureaucratic) impediments for humanitarian agencies
Military operations and ongoing hostilities impeding humanitarian operations	No or limited/temporary restrictions from military authorities and/or armed groups to access conflict-affected populations and/or for conflict-affected populations to access services and assistance
Violence directed against humanitarian personnel, assets, and facilities	A relatively secure physical environment
Restrictive internal policies that deter or prevent teams from seeking access to those most in need	Effective organizational security rules and procedures that keep staff safe while facilitating their ability to secure and sustain access
Interference in the implementation of humanitarian activities	Humanitarian activities, staff, and goods not interfered with during implementation
Presence of mines and UXO	A relatively secure physical environment
Environmental challenges, including weather, geographical restrictions, and poor infrastructure	Adequate resources and logistical capacity to overcome environmental challenges
Restrictions on, or obstruction of, access by people in need to essential goods and services	No limitations from authorities for people in need to access essential goods and services
Misaligned expectations about humanitarian access and assistance among relevant actors	Clear expectations with beneficiary populations, authorities, and humanitarian organizations
Internal policies or bureaucracy within the organization	Rapid and effective internal decision-making and resource allocation

<sup>57</sup> These factors include the nine categories of access constraints that constitute the Access Monitoring and Reporting framework developed by UNOCHA.

Humanitarian practitioners can use a graphical tool, such as that provided in Figure 6, to identify and categorize factors that are positive/enabling or negative/constraining, internal or external. The aim of this visual exercise is to assist practitioners in considering a wide range of different types of factors related to humanitarian access.

**Figure 6 – Sample factors diagram**

Red factors relate to population access; blue factors relate to the organization’s access.



**Priority factors**

Once the influencing factors are identified and categorized, practitioners can focus in on the most important, or “priority,” factors. Priority factors are those most relevant and critical to an organization’s or people’s access. It is the priority factors that practitioners should most focus on in developing options for improving access (see Step 4: Develop options for access).

### Identifying factors preventing patients from accessing malaria treatment in CAR

In 2011, an INGO working in conflict-affected regions of Central African Republic (CAR) recognized that fewer than expected patients were seeking malaria treatment at its clinics. The organization undertook a mortality survey, which revealed that many people within the project's catchment area were failing to seek treatment, which resulted in preventable deaths. The survey revealed several unexpected factors inhibiting those in need from accessing treatment, including lack of awareness about the services, transport difficulties, and fear of violence by warring parties en route to and at the destination. The INGO subsequently adjusted its programme by improving public awareness and reaching out to malaria patients through home-based care.

*Observations:* Consideration of the less obvious factors affecting access – including the factors affecting access by people in need to services – through information collection and analysis can help test access-related assumptions and reveal previously unidentified options for increasing access.

### Identify and understand the actors influencing access

In addition to the identification and classification of factors, it is important for practitioners to identify and understand the actors that influence humanitarian access. These can include individuals, humanitarian agencies, NSAGs, commercial entities, States and their armed forces, criminal gangs, donors, and affected people in need of assistance and protection. Identifying influential actors is essential to the process of developing options related to, for example, building relations, negotiating access, and coordination.

To start the process of identifying actors, practitioners can map and categorize actors visually according to whether they are internal or external (to the organization), and the degree to which they are enabling or constraining. Practitioners can refer to Figure 6 – Sample factors diagram and relabel it to apply to actors. An actor's influence may vary over time, and may directly or indirectly relate to access. It is therefore important to analyse a wide range of actors and explore the nature of their influence as well as their characteristics. Understanding an actor's characteristics can illuminate its relative importance as well as how the actor may be engaged to positively influence access. Table 6 provides some questions to consider and explore when analysing actor characteristics.

Table 6 – Learning about characteristics of influencing actors<sup>58</sup>

Characteristics of those influencing access	Considerations and questions to explore
<b>INTERESTS</b>	<p>Interests can be political, economic, military, ideological, and/or religious, or can be about prestige, revenge, or other personal issues. Interests are not always immediately apparent or easily discernible, and may be quite distinct from a group's or individual's stated or outward position.</p> <p><b>Questions to explore:</b></p> <ul style="list-style-type: none"> <li>• What motivates the actor (resource related, ideological, personal, etc.)?</li> <li>• What is the actor's stated or outward position towards humanitarian action and specifically towards humanitarian access?</li> <li>• Are there areas of overlapping interest between the actor and the humanitarian organization(s)?</li> </ul>
<b>STRUCTURE</b>	<p>Understanding an actor's structure (when the actor is a multi-person entity) can illuminate how it makes decisions and the distribution of influence within it.</p> <p><b>Questions to explore:</b></p> <ul style="list-style-type: none"> <li>• What is the structure of the entity, e.g. centralized or "cell-like" with semi-autonomous sub-actors?</li> <li>• Who has influence within the entity? Is there a clear, effective and stable hierarchy?</li> <li>• Who, within the entity, is responsible for decisions regarding humanitarian action/access? How well are such decisions communicated within the entity?</li> </ul>
<b>CONSTITUENCY</b>	<p>An actor may or may not represent the views and interests of its constituency. If the views of the actor and its constituency are divergent, it can be useful to assess whether the constituency is itself an influential actor.</p> <p><b>Questions to explore:</b></p> <ul style="list-style-type: none"> <li>• Does the actor have a legitimate constituency? Does the constituency view the actor as a genuine and desired representative of its interests?</li> <li>• What are the views of the actor's constituency concerning humanitarian action in general and humanitarian access specifically?</li> <li>• Are there areas of overlapping interest between the constituency and the organization?<sup>58</sup></li> </ul>

<sup>58</sup> For example, an NSAG's constituency may include local communities which share a common interest with the humanitarian organization in increasing access to essential goods and services.

Characteristics of those influencing access	Considerations and questions to explore
<b>SOCIO-CULTURAL ASPECTS</b>	<p>Socio-cultural factors may influence the actor's position on access. For example, cultural sensitivities regarding gender roles may affect the actor's willingness to allow some forms of humanitarian assistance to women.</p> <p><b>Questions to explore:</b></p> <ul style="list-style-type: none"> <li>• Are there socio-cultural considerations that influence the actor's actions regarding humanitarian action (including access)?</li> <li>• What social, cultural, or religious behaviours/norms may influence access, potentially by enhancing or diminishing acceptance of humanitarian organizations?</li> <li>• Are there categories of staff that would be rejected, or better accepted?<sup>59</sup></li> </ul>
<b>PERCEPTION OF OWN IMAGE</b>	<p>All actors cultivate a self-image. Understanding how an actor perceives itself can provide insight into areas of common interest or points of leverage.</p> <p><b>Questions to explore:</b></p> <ul style="list-style-type: none"> <li>• What are the main aspects of the actor's self-image?</li> <li>• To what extent does the actor place value on external perceptions of itself?</li> <li>• Does the actor care about its image as it relates to humanitarian action or access?</li> </ul>
<b>PERCEPTION OF HUMANITARIAN ACTORS</b>	<p>An actor may have positive and negative perceptions of different aspects of a humanitarian organization's identity. These perceptions can guide the actor's actions towards the organization regarding access.</p> <p><b>Questions to explore:</b></p> <ul style="list-style-type: none"> <li>• What is the actor's perception of humanitarian action?</li> <li>• What is the actor's perception of the organization's/organizations' presence/activities? Is it accurate?</li> <li>• What is the actor's perception of the organization's/organizations' way of working, including its/their principles?</li> </ul>
<b>RELATIVE INFLUENCE OF THE ACTOR</b>	<p>The actor's influence over humanitarian access and activities is related to its relationship with other actors.</p> <p><b>Questions to explore:</b></p> <ul style="list-style-type: none"> <li>• What influence does the actor have within the community, and upon humanitarian access/presence/activities?</li> <li>• What control does the actor exert over territory or communities? Does the stated control match reality? Is that control contested or shifting?</li> <li>• Who is influential upon the actor?</li> </ul>

<sup>59</sup> Note that staff "profiling" or deploying staff on the basis of ethnic, religious, gender, or other identity characteristics may be a controversial or risky practice that may or may not entail making a principled or institutional compromise. Knowing how categories of staff are perceived is a first step to deciding whether or not to adjust staffing based on identity characteristics.

## CASE

### **Mapping non-State armed groups catalyses access negotiations in Darfur, Sudan**

From 2004 to 2007 the number of NSAGs of various sizes and influence active in Darfur grew from two to more than 16. Many groups had little military capacity but were nonetheless positioning themselves as powerful military entities with control over territory, in part to gain a seat at the negotiations table with the central government during the Darfur Political Process. Even small and non-influential groups identified “humanitarian aid coordinators” to liaise with humanitarian organizations as part of their efforts to enhance legitimacy.

Although time consuming, mapping the evolution of these groups, the relationships between them, and their actual observed areas of operation proved critical to securing and maintaining humanitarian access. Mapping was coordinated by one agency and included up-to-date information – organized on geographic maps and contact databases – drawn heavily from humanitarian organizations themselves. This process helped reveal the interlocutors with whom humanitarian organizations needed to engage, thus substantially reducing the learning curve and the relationship-building phase for organizations entering new areas, and fostering consistency in humanitarian negotiations. The system worked in part because it was well coordinated and because organizations saw that the effectiveness of the system depended on the combined contributions of the humanitarian community as a whole.

*Observations:* In most contexts, multiple groups have varying degrees of power and influence over humanitarian access. Coordinating to map and analyse these groups can boost the potential for multiple humanitarian organizations to secure and sustain access.

### **Relationship mapping**

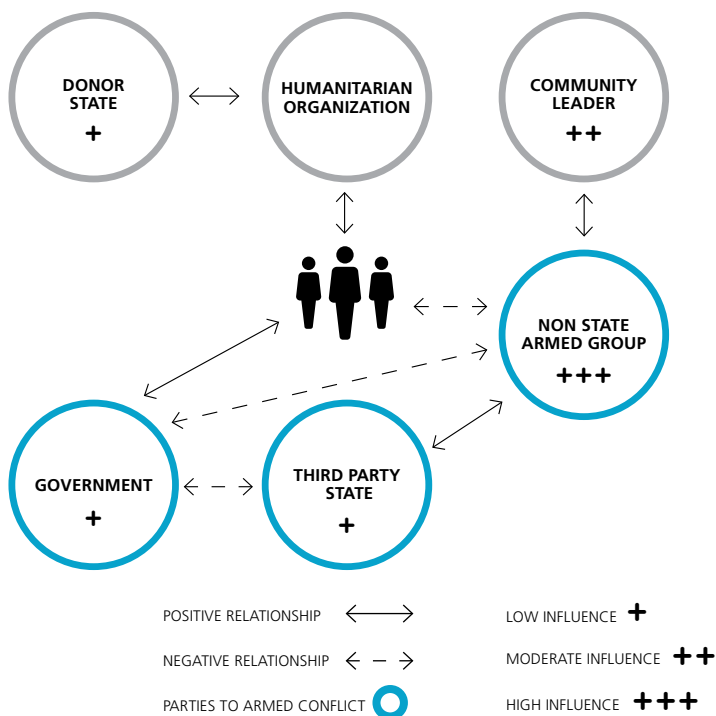
Visually mapping the links between different actors can reveal layers of interconnection and influence. Understanding the relationships between relevant actors can help practitioners to predict the likely outcomes of engaging with particular actors. Practitioners can use this information to guide their development and implementation of options for access, particularly regarding where to invest resources in networking, negotiations, or other activities.

To illuminate various relationship dynamics, a map tool can include:

- Symbols to indicate different kinds of actors: logos, colours, flags, photos, or others.
- Different types of lines to indicate positive or negative relationships between actors.
- Symbols to indicate degree of influence on access or over other important actors. For example, practitioners can use a “three plus” system to identify an actor’s degree of influence in which one plus (+) equals low level of influence, two pluses (++) equals a moderate level of influence, and three pluses (+++) equals a high level of influence.

A sample relationship map is shown in Figure 7.

**Figure 7 – Sample relationship map**



## Priority actors

As with factors, once influential actors are identified and categorized, practitioners can focus on the most important “priority” actors. Priority actors are those most relevant and critical to an organization’s access. It is the priority actors that practitioners should most focus on in developing options and strategies for engaging, influencing, and/or negotiating for improved access (see Step 4: Develop options for access).

### CASE

#### **Adherence to principles and strong networking pay access dividends in Democratic Republic of Congo (DRC)**

In 2010, extreme insecurity and self-imposed travel restrictions decreased or eliminated humanitarian access to some critical areas in North and South Kivu. Nevertheless, two organizations achieved high levels of access, in part by strictly adhering to a principled approach and by investing in networking and negotiations.

These organizations had a history of impartial humanitarian operations clearly targeting communities most in need. They also worked hard to distinguish themselves as neutral humanitarians operating independently from, among other politically involved actors, the UN peacekeeping force then called MONUC.

Combined with strictly maintaining their independence and neutrality and consistently basing their activities on needs, these organizations strategically developed relationships with all parties, including NSAGs, over the course of several years. In order to ensure durable relations, they mapped and recorded contact with all groups, and made efforts to reduce staff turnover of, and ensure adequate handovers between, the organization’s representatives.

*Observations:* The combination of strict adherence to the humanitarian principles, strong actor analysis, and investing in relationship building can be a powerful way to achieve and maintain humanitarian access even in highly insecure contexts.



### Step 3: Analyse causes

Analysing the causal links between factors can reveal ways to enhance or reproduce the links if they are enabling, or develop options for positively influencing them if they are constraining. For example, an enabling factor internal to a humanitarian organization might be “strong staff loyalty.” Understanding what has led to the particularly strong loyalty of personnel may indicate ways to reproduce these positive conditions. Similarly, understanding the causes of a constraining factor, such as “frequently occurring security incidents,” can illuminate ways to reduce the risk of exposure to such incidents.

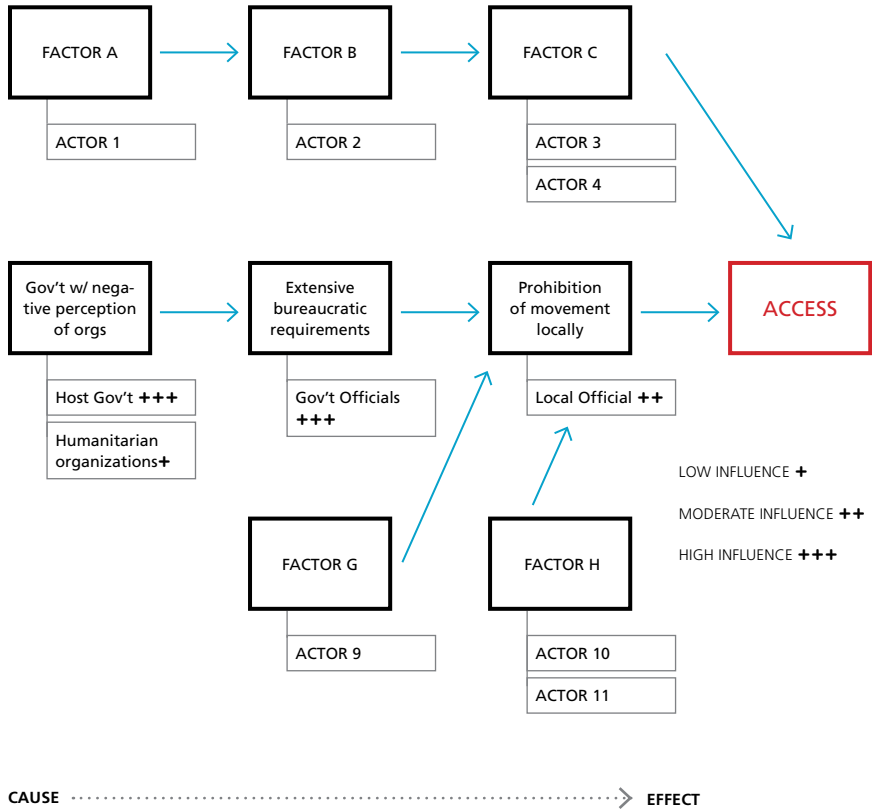
The causal analysis process begins by selecting key factors identified through Step 2. A factor is likely to have multiple causes linking the more immediate to the more distant causal factors. Visually charting these causal chains and including actor-factor combinations can assist in identifying points of blockage or opportunity.<sup>60</sup> Figure 8 presents a visual format to assist practitioners in conducting causal analysis; the middle “causal chain” includes examples.

Once practitioners understand the causes of key factors related to access, they will be in a better position to begin developing options that have a higher likelihood of securing and sustaining access (see Step 4).

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<sup>60</sup> It can be helpful for this exercise to use sticky notes on a wall or whiteboard. If using sticky notes, use different colours for factors and actors.

Figure 8 – Causal analysis



# 3.3

## Methodology PART II – Design

This part of the methodology builds on the analysis conducted in Steps 1-3. With an understanding of the important factors and their underlying causes, as well as related actors and their relative influence, practitioners are prepared to develop a range of options for securing and sustaining humanitarian access.

This part of the methodology involves two steps:

- Step 4: Develop options for access.
- Step 5: Assess and prioritize options.

### Step 4: Develop options for access

Options are actions that practitioners can take towards securing or sustaining access to a population in need, or facilitating that population's access to essential goods and services. Since developing options stems from analysis, the quality of analysis conducted in Steps 1-3 will largely determine the quality, feasibility, and impact of options practitioners develop through this step.

Options should aim to achieve the form of access that will optimally meet humanitarian needs. The parameters (see Step 1) can help practitioners clarify the optimal form of access by spelling out access for what purpose, by whom, to whom, to what, where, and when.

Options for gaining or improving access must be consistent with the core humanitarian principles and the international normative framework presented in Section 2. Options that are not consistent with these principles and framework should be discounted (see Step 5).

Options can take a wide range of forms related to, for example, security policies, negotiations and networking, coordination, or human resources. Options may also relate to the type and manner of an organization's assistance, or the means for people in need to access essential goods. It is useful for practitioners to initially think openly about options no matter how unusual, controversial, or infeasible they may first seem. This methodology supports practitioners in assessing, prioritizing, and selecting options at a later stage (see Step 5).

## IN FOCUS

**Access advice from two UN studies**

In early 2010, UNHCR published the findings of a study which reviewed challenges to “safeguarding humanitarian space” – the environment in which humanitarian access is sought – across 15 past or ongoing operations worldwide.<sup>61</sup> The study pointed to common threads of guidance to safeguard this environment:

- Adopt a **clearly defined vision** of what the organization is working to achieve, and set clear objectives for delivery.
- **Establish and maintain positive relations** with host and displaced communities. Presence through longevity and reach is key.
- **Empower communities** through engagement and consultation. Strengthen existing coping mechanisms.
- **Influence perceptions**, including by clearly and assertively communicating the organization’s humanitarian mission and mandate.
- Develop **strategic partnerships** and coordinate to overcome challenges to humanitarian access.
- Explore and develop where necessary **operating models that are tailored to the particular context**; avoid “one size fits all.”
- **Develop staff skills and capacity**, especially in areas of communication and negotiation.
- **Understand the operating environment**, including through conflict analysis.

A UNOCHA-commissioned independent study in 2011<sup>62</sup> also highlighted seven categories of good practice for maintaining humanitarian access and effective operations **in high-risk environments**:

1. **Active acceptance-based approaches** towards local communities, parties to conflict, and other relevant stakeholders.

61 Vicky Tennant, Bernie Doyle, and Raouf Mazou, *Safeguarding humanitarian space: a review of key challenges for UNHCR*, Document Ref. PDES/2010/01 (Geneva: United Nations High Commissioner for Refugees, Policy Development and Evaluation Service, February 2010): <http://www.unhcr.org/4b68042d9.html> [accessed 17 April 2014].

62 Jan Egeland, Adele Harmer, and Abby Stoddard, *To Stay and Deliver: Good Practice for Humanitarians in Complex Security Environments* (New York: UN Office for the Coordination of Humanitarian Affairs, February 2011): [https://ochanet.unocha.org/p/Documents/Stay\\_and\\_Deliver.pdf](https://ochanet.unocha.org/p/Documents/Stay_and_Deliver.pdf) [accessed 17 April 2014].

2. **Negotiating access** with all relevant parties.
3. **Remote programming** to reduce exposure of high-risk staff.
4. **Low-profile approaches**, such as “de-branding” (of vehicles and facilities, etc.) or “blending” strategies (e.g. use of rented vehicles).
5. **Protective measures**, such as structural reinforcements, or more visible measures, such as the use of protected enclaves.
6. **Deterrent measures**, such as temporary suspension of operations or community-based policing.
7. **Other operational means**, such as rapid response mechanisms, or coordinated security incident tracking and information sharing.

As with other parts of this methodology, brainstorming and researching can be effective and complementary methods for developing options. Researching precedents and lessons learnt by other humanitarian actors or teams can spark new ideas and reveal valuable insights on the types of options most likely to succeed. Brainstorming based on the analysis of factors and associated actors (Steps 2 and 3) can also provide an effective method of generating options.

Practitioners can capture the results of either process in a table or matrix which identifies the options beside the corresponding factors and actors, as shown in the example in Table 7.

**Table 7 – Sample options for a factor and related actors**

FACTOR	ACTOR	POTENTIAL OPTION
Refusal by a non-State armed group (NSAG) to grant access to a population in need in territory under its control	NSAG	<ul style="list-style-type: none"> <li>• Identify and engage the NSAG’s humanitarian focal point(s) in an effort to engage in negotiations for access.</li> <li>• Negotiate through an intermediary who already has a close relationship with the NSAG.</li> </ul>
	Population in need of assistance	<ul style="list-style-type: none"> <li>• Determine if the population could travel to a secondary location to receive essential goods and/or services.</li> <li>• Build relationships with community leaders to influence the NSAG.</li> </ul>
	Other humanitarian organizations	<ul style="list-style-type: none"> <li>• Consult other organizations or coordination structures on their efforts and tactics to gain access.</li> <li>• Consider joint negotiations on access.</li> </ul>

The following two resources can facilitate the brainstorming approach to developing options:

1. Table 8 assists practitioners in considering options related to specific functional areas. A functional area refers to a collection of activities around a common function, often organized in “departments” or “units” within an organization or between organizations. It can be useful to include staff from different functional areas to assist the creative process, build buy-in, and set the stage for implementation. Types and relevance of functional areas may differ substantially between organizations and contexts. Table 8 provides some examples of functional areas; it is not intended as an exhaustive list.
2. Annex II: Sample options linked to common constraints presents a list of example options linked to a range of potential factors.

**Table 8 – Sample options across six functional areas**

#### FUNCTIONAL AREA 1: SECURITY

##### Sample options:

- Consider risk-reducing activities in the following areas:
  - Acceptance: Orient programmes, communications, and behaviours towards building acceptance among key actors.<sup>63</sup>
  - Deterrence: Consider options such as reduced cash availability, randomized travel times, and low-visibility strategies.
  - Protection: Consider security measures such as reinforced compound security, armoured vehicles, and armed protection.<sup>64</sup>
- Enter into negotiations with influential actors to gain security assurances.<sup>65</sup>

#### FUNCTIONAL AREA 2: LOGISTICS

##### Sample options:

- Evaluate various modes of transport, including trusted commercial transporters.<sup>66</sup>
- Take advantage of technological advances such as telemedicine, electronic mapping, or new vaccine/medicine cold-chain management techniques.
- Consider using “kits” or other time-saving measures that can maximize on-the-ground effectiveness when access is limited or sporadic.

63 Note that gaining acceptance from communities in need of assistance is often achieved through sustained presence, demonstrating principled actions, providing careful explanation of the organization’s objectives, remaining with communities, and continuing operations during ongoing challenges and hostilities.

64 Note that using armed protection may challenge one or more core humanitarian principles and should therefore be carefully weighed. See also IASC *Non-Binding Guidelines on the Use of Armed Escorts for Humanitarian Convoys*: February 2013, <http://www.refworld.org/pdfid/523189ab4.pdf> [accessed 17 April 2014].

65 See Step 7 Manage opportunities and challenges: Humanitarian negotiations. See also Gerard Mc Hugh and Manuel Bessler, *Humanitarian Negotiations with Armed Groups: A Manual for Practitioners* (New York: United Nations, January 2006): <https://docs.unocha.org/sites/dms/Documents/HumanitarianNegotiationswArmedGroupsManual.pdf> [accessed 17 April 2014].

66 Practitioners should take into account that using third party transporters may increase risk of lost items and/or loss of accountability.

**FUNCTIONAL AREA 3: OPERATIONS****Sample options:**

- Orient options towards access by people in need rather than to people in need.
- Develop contingency plans for periods of partial or full withdrawal.
- Balance security risks with the potential humanitarian benefits of each option.
- If adopting remote management, invest adequate resources in the system.
- Use public messaging strategically to support access initiatives.

**FUNCTIONAL AREA 4: HUMAN RESOURCES (HR)****Sample options:**

- Dedicate HR capacity to specific access-related functions such as context analysis, networking, negotiations, and security management.
- Develop HR action plans focusing on such things as improving staff competence, reducing turnover, and guarding institutional memory.
- Develop robust training programmes for access-related competencies such as analysis or negotiation.
- Remain conscious when recruiting and structuring teams of perceptions related to the profiles of staff.

**FUNCTIONAL AREA 5: ADMINISTRATION AND FINANCE****Sample options:**

- Strengthen accountability systems to control resource flows as well as to improve an organization's credibility.
- Secure donor funding that safeguards the principles and the organization's image.

**Keeping open alternative courses of action**

If it is not possible to generate any feasible options, or if (during implementation) none of the options or combinations of options developed is successful, practitioners should keep open the possibility of alternative courses of action.

Ultimately, and in extreme situations, this may involve, for example, cessation of humanitarian operations in that context or to a specific population in need/in a specific area; donating essential items to a third party for distribution, training and supporting local organizations to provide services, or advocating for other, non-humanitarian actors to deliver relief supplies.

Practitioners will generally pursue alternatives as a last resort and must carefully assess alternative courses of action for their potential humanitarian impact and consequences prior to implementation.

### **In the face of obstructed access in Myanmar, organizations choose opposing alternatives**

In 2006, the Government of Myanmar published guidelines formalizing the system in which humanitarian organizations were required to obtain the government's approval for operations and staffing decisions. The guidelines further constricted already challenged organizations' operational independence and impartiality and severely limited the access options available to them.

One organization maintained operations using the low-profile approach it had adopted years earlier in which it considered the lack of explicit government denial as an adequate go-ahead. Having already established its presence in this manner in four parts of the country with significant humanitarian impact, it was able to maintain operations throughout the period of tightened restrictions. However, government-imposed caps on the number of international staff and the lack of free movement continually forced the organization to weigh compromises related to independent and impartial aid delivery.

At the same time, another organization working in the eastern conflict-affected border region concluded that the government-imposed obstructions did not allow for independent or impartial access. The organization thus resorted to the alternative of withdrawing and speaking out using months of gathered data and evidence to highlight access restrictions, as well as to denounce human rights abuses and breaches of IHL. In this case, the organization deemed that the alternative to access of using public advocacy was the "least worst" course of action that at least held some, albeit limited, prospect for generating outside pressure for access and improved humanitarian conditions.

*Observations:* The internal process of confronting access challenges can lead organizations towards very different courses of action depending on (expected) humanitarian impact, the degree of principled compromise, the organization's policies and values, and other factors.



Developing alternatives is similar to developing options. In addition to the guidance in Step 4, practitioners can consider the following points when developing alternatives:

- Are there alternative forms of access that do not achieve the desired access (as defined through the parameters) but may still improve humanitarian conditions?
- If no form of access is possible, what alternative courses of action are available?
- Revisiting and expanding the factor/actor analysis (see Steps 2 and 3) can help to identify potential alternatives.
- It is possible to assess and prioritize alternatives according to the same criteria as options (see Step 5).

#### IN FOCUS

### Advocacy

As it relates to access, advocacy can be divided into two broad, not mutually exclusive, categories: (1) focused advocacy in support of gaining humanitarian access; and (2) advocacy aimed at improving the conditions of target beneficiaries. Advocacy can be public or can be undertaken directly in private consultation with authorities or those with influence.

For both types of advocacy, practitioners can consider the following seven points of guidance:

1. Carefully weigh the pros/cons of public versus targeted non-public advocacy. Public advocacy can reach a wider audience and may be a stronger method of leveraging change, but may also elicit strong negative reactions from those explicitly or implicitly held to account.
2. To the greatest extent possible, base all forms of advocacy on facts and evidence. Advocating for improved conditions in the absence of evidence can be more easily ignored and can affect the credibility of the organization or the wider humanitarian community.
3. Objectively present the humanitarian needs and/or constraints on humanitarian access. Avoid focusing on only one party to the conflict. Advocacy that is perceived as unbalanced is more likely to be rejected.

4. Understand the relevant provisions of the normative framework, and the obligations and roles of the parties to armed conflict and other relevant actors, and consider whether to highlight these in public or bilateral advocacy.
5. Be strategic in calling on States, the UN, and other relevant actors to take action to improve access or humanitarian conditions.
6. Recognize actions by any and all parties to facilitate humanitarian access.
7. Consider the potential benefits or drawbacks of working with other organizations in joint humanitarian advocacy efforts.

## Step 5: Assess and prioritize options

The next step in the methodology is to assess and prioritize the options developed in Step 4.

Since the range of potential options can be wide and organizations' capacity to implement them limited, it can be helpful to assess and prioritize the relative value of options. To structure and guide the process of assessing and prioritizing options, practitioners can undertake the following activities:

- **PURPOSE:** Practitioners can weigh the extent to which an option has the potential to achieve the purpose and the desired form of access (as defined through the parameters in Step 1).
- **EFFECTS:** Practitioners can assess the expected **positive** as well as potential **negative effects** of an option by analysing it from different angles, weighing its merits and consequences objectively. For example, the option of partnering with a local organization to deliver humanitarian assistance may have strong positive effects related to expanding the reach of an international organization to people in need. However, delivering humanitarian assistance via a local organization may expose that organization to greater security risk.

Practitioners can also consider the following questions related to the positive and negative effects of options:

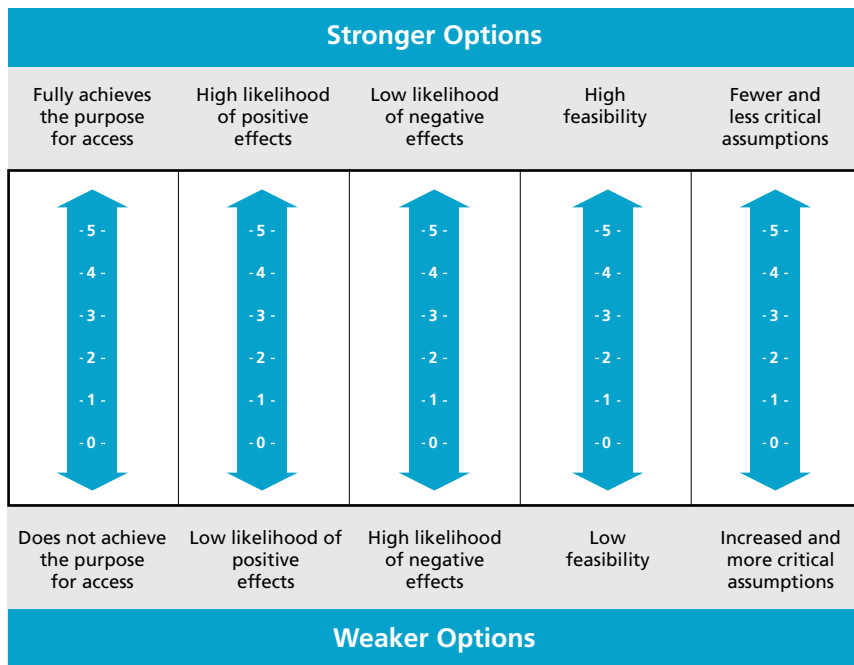
- What degree and scope of humanitarian impact is it likely to have?
- Will it increase security risk to staff, beneficiaries, or others?
- Is it likely to cause harm in any way?
- Is it in line with organizational policies and values, such as security or staffing policies, quality standards, etc.?

- Is it in line with core humanitarian principles?
- Is it in line with the international normative framework – do provisions of international law support the option?
- **ENHANCING AND MITIGATING ACTIONS:** Practitioners can consider further actions that can **enhance** the positive outcomes or **mitigate** the negative ones. Enhancement could include, for example, actions to increase the scope or impact of planned activities, or taking advantage of a team's presence in a particular area to build relations with local community leaders. Mitigation could include, for example, reducing exposure to security risk, or avoiding funding from donor States militarily engaged in the context. Practitioners should discard any options that they deem likely to result in negative outcomes that are not possible to mitigate to acceptable levels.
- **FEASIBILITY:** Practitioners can assess **feasibility of the options**. Does (do) the organization(s) have the capacity to follow through with the option or alternative? Consider issues such as:
  - Human resources (availability and competence).
  - Financial resources.
  - Adequacy of accountability systems.
  - Logistical capacity.
  - Adequacy of the security management system.
  - Opportunity costs – would the allocation of resources to this option preclude the organization from pursuing other important objectives?
- **ASSUMPTIONS:** Practitioners can identify, test, and monitor **assumptions**. Assumptions may relate to expected humanitarian impact, security risk, community acceptance, human resources capacity, and many others. Untested assumptions can increase uncertainty and detract from the value of an option or alternative. It is important to monitor assumptions throughout implementation of options.

Practitioners can use the information from these points to compare different options. If the options under consideration are insufficient or involve unacceptable expected negative outcomes, practitioners can work to develop new options (see Step 4).

However, in some cases practitioners may face difficult choices between undesirable options. Such options may, in their implementation, potentially compromise one or more core humanitarian principles, the international normative framework, or an organization's core values and policies. When faced with these types of situations, practitioners can refer to Section 4: Dilemmas for further guidance.

Figure 9 – Assessing options



**Scoring exercise**

To facilitate the comparative process, practitioners can score the different options. Using the “Scoring Key” in Annex IV, practitioners can assign scores from 0-5 for each of the five variables in Figure 8 (see Annex IV: Practical tools – scoring exercise). Practitioners can add the total score for each option to compare, adjusting for variables that practitioners weigh more heavily than others.

Alternatively, practitioners can select and score two of the five variables, for example, “feasibility” and “positive outcomes,” and plot the scores on a matrix (see Annex IV: Practical tools – scoring exercise/alternative scoring exercise).

### High insecurity in Somalia prompts a shift to remote management

In 2008, the number of targeted attacks and kidnappings of humanitarian personnel, especially of international origin, multiplied dramatically in Somalia, prompting most organizations to withdraw their international staff. The options for continued programming were limited.

Faced with little prospect for the foreseeable redeployment of international staff, aside from the occasional “flash” visit, one INGO chose to maintain and even to a limited extent expand programmes by investing in its Remote Management (RM) system.<sup>67</sup> Its standard operational model, like that of many organizations, depended upon the field-level presence of skilled national as well as international staff to ensure impartiality, programme quality, and accountability, and to provide a protective buffer for the organization’s beneficiaries and national staff. Losing the field-level presence of international staff thus carried assumed risks and compromises in those areas.

The INGO thus set about to mitigate the impact of these expected risks and compromises by:

- Developing extensive procedures for monitoring resources and programme quality with emphasis on verifying information through triangulating sources (e.g. comparing in detail stock-in/out records with financial data and patient consumption data).
- Establishing fluent, effective, and frequent communications between field and remote office staff (using e.g. video conference and other communications means, and by instilling a culture of open and detail-oriented communications).
- Emphasizing training and capacity building of local staff. This serves the dual purpose of increasing staff competence and increasing staff loyalty and commitment.

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<sup>67</sup> RM has been defined as “a way to implement programmes in insecure environments, which involves the withdrawal or the limited presence of international personnel (and sometimes national) from the area where the project is being implemented.” See: Abby Stoddard, Adele Harmer, and Jean S. Renouf, “Once Removed. Lessons and challenges in remote management of humanitarian operations for insecure areas,” *Humanitarian Outcomes 2010*: <http://www.humanitarianoutcomes.org/sites/default/files/resources/RemoteManagementApr20101.pdf> [accessed 17 April 2014].

- Promoting local staff programme “ownership,” while maintaining strong accountability mechanisms.
- Investing in strengthening community relations.
- Ensuring consistent high quality context analysis at field and remote office locations.
- Displacing risk up the management chain by ensuring that resource decisions are made – and known to be made – from the remote location.

*Observations:* When faced with the impossibility of deploying international staff to the field, RM is an option. However, RM may increase the likelihood of compromise related especially to impartiality, resource accountability, quality control, and security risk transference. When RM is considered, the perceived risks and compromises should be identified and, to the extent possible, mitigated. Only at that stage can an organization effectively evaluate whether or not programme continuation is justified.

# 3.4

## Methodology PART III – Implementation



Implementation checklist is available in Annex IV: Practical tools. This checklist guides practitioners through the process of implementing options.

The third part of the methodology focuses on implementing options for humanitarian access. It includes two steps:

- Step 6: Organize internally.
- Step 7: Engage externally.

### Step 6: Organize internally

Adequate internal preparation and organization can increase practitioners' ability to successfully implement options or alternatives for access and achieve the desired outcomes. Practitioners can consider the following points of guidance in organizing internally for implementation.<sup>68</sup>

- Define roles and responsibilities for implementation to ensure that individuals, departments, and/or external actors are clearly accountable for different aspects of the approach or plan.
- Clarify funding arrangements.
- Clarify level of activity. Clarify at what organizational or operational level action is required, such as at the field, country office, regional, or headquarters levels, or via humanitarian coordination structures.
- Identify time frame. Identify actions according to immediate, medium-, and long-term time frames.
- Communicate. Establish lines and means of communicating effectively within the organization regarding objectives, plans, roles, and responsibilities.
- Prepare for negotiations (see Step 7).

<sup>68</sup> Note that in situations where these activities cannot be done prior to implementation, most can be done during implementation.

- Keep records. Keep up-to-date written and properly filed records of the process and decisions related to developing and implementing the access approach (see In Focus: Record keeping and institutional memory).
- Ensure adequate logistical preparations. Ensure availability of the necessary logistical equipment and arrangements related to such things as transport, buildings and spaces, and communications. Take advantage of technological advances such as text-based mapping programmes or telemedicine.
- Establish a Monitoring and Evaluation system. See In Focus: Monitoring and Evaluation. Set up the monitoring system at an early stage in order to measure progress on access and humanitarian impact throughout implementation. Plan to formally evaluate the access approach at specified moments.
- Write an access plan or strategy. See e.g. Annex IV: E Access strategy template. Practitioners can also organize their access plan in a logical framework (“logframe”).<sup>69</sup>
- Plan for adjustments. Access is not a moment or an “on/off” situation. Developing and refining an approach to access is an iterative process. Plan to review contextual developments and analyse factors and actors on an ongoing basis (Steps 1-3). Be prepared to develop and assess new options and alternatives (Steps 4 and 5).

Two particularly important aspects of organizing internally to implement access options are human resources and security management. These are briefly discussed below.

### Human resources

Human resources (HR) can be an important internal enabler or constraint to humanitarian access. Having the right people, with the necessary skills in their roles for adequate periods of time and with adequate handovers can make a crucial difference in access outcomes. Establishing and fulfilling an HR action plan at an early stage in the implementation process can transform HR from a challenge to an opportunity to improve access.

During implementation, it can be useful for practitioners to identify areas of expertise that are integral to the organization’s access approach. Referring to the functional areas can assist in this regard (see Step 4). Humanitarian organizations can consider developing specific HR action plans and identifying focal points to cover key areas such as security management, context analysis, actor mapping, relations-building, coordination, negotiation, and M&E. Action plans can include:

<sup>69</sup> For example, see ECHO’s Logical Framework Matrix: [http://ec.europa.eu/echo/files/partners/humanitarian\\_aid/fpa/2003/guidelines/logical\\_framework\\_guidelines\\_en.pdf](http://ec.europa.eu/echo/files/partners/humanitarian_aid/fpa/2003/guidelines/logical_framework_guidelines_en.pdf) [accessed 17 April 2014].



- Extra attention to competency-based recruitment.
- Regular evaluations against specific competencies linked to access.
- On-the-job coaching or more formalized training for access-related competencies.
- Contingency plans for sick and holiday leave, non-performance, or early departures.
- Morale and motivation boosters, including creating a productive team dynamic and working culture.
- Identifying support that is to be provided externally by other actors or consultants.

### Security management

The challenge related to security management during implementation is for practitioners to continually manage and minimize exposure to security risks. Numerous resources are available to assist practitioners in the area of security management (see Annex V). However, the three areas of security management highlighted below are particularly linked to access. By investing in the following activities, practitioners can significantly improve prospects for access:

- **Systematically collect information.** Set up and maintain a robust information collection system or avail yourself of the resources of other organizations. Information can include security incident data as well as rumours, movements of armed personnel, shifting alliances, etc. Routinely identify and map relevant factors and actors (see Step 2) and their influence on the security situation.
- **Continually analyse the security context.** Information is of limited value without analysis. Dedicate competent resources to this task or avail themselves of the resources of other organizations. Ensure timely discussions of security analysis among the organization's operational decision-makers.
- **Build relations and negotiate.** Allocate adequate time and competent personnel to building strong relations and negotiating with all influential actors. This can greatly reduce, or at least help anticipate, security threats and facilitate access.

## Step 7: Engage externally

Successfully implementing options or alternatives for securing or sustaining access involves engaging multiple actors external to the organization. These can be people in need of assistance or protection, other humanitarian organizations, government officials, NSAGs, donors, civil society groups, and others.

The objectives of engagement will vary by context and actor, and could include, for example, building acceptance, communicating important information, coordinating activities, or negotiating access. The means of engagement will also vary and could include, for example, negotiations, public communications, use of social media, bilateral or multi-agency meetings, or less formal engagement at individual or community level.

In organizing for external engagement, practitioners can identify the **actor(s)** to engage with, the **objectives**, and the **means** of engagement.

Two critical aspects of external engagement which practitioners frequently face are **negotiations** and **coordination**. Given the importance of these two aspects to humanitarian access, they are discussed in some detail below.

### Humanitarian negotiations<sup>70</sup>

Negotiating is often an integral and necessary aspect of any approach to access. Without it, access will rarely be obtained or sustained, especially in conflict settings. Developing the skills and an effective negotiations strategy can significantly boost an organization's (or coordination mechanism's) chances for achieving access. Practitioners can consider the following in developing a negotiations strategy:

#### *Preparation*

- Where possible and constructive, liaise and **coordinate** with humanitarian partners on the overall approach to negotiations.
- Define the **purpose** for entering into negotiations and the desired outcomes from the negotiations.
- Consider **possible alternatives** to a negotiated agreement which your organization could pursue to gain or increase access if negotiations are unsuccessful.

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<sup>70</sup> Detailed guidance on structuring an approach to humanitarian negotiations can be found in Gerard Mc Hugh and Manuel Bessler, *Humanitarian Negotiations with Armed Groups: A Manual for Practitioners* (New York: United Nations, January 2006): <https://docs.unocha.org/sites/dms/Documents/HumanitarianNegotiationswArmedGroupsManual.pdf> [accessed 17 April 2014].

- **Determine the negotiating partner.** Conduct a thorough actor mapping to determine the relevant individuals or groups with whom to seek negotiations (see Steps 2 and 3).
- **Analyse negotiation partners.** Learn about the negotiating partner's characteristics and interests (see Table 6: Learning about characteristics of influencing actors). Opportunities for an agreement frequently exist where the organization's and counterpart's interests overlap.
- **Use the right negotiators.** Select and train the appropriate personnel with consideration for local or national norms and culture. Ensure that personnel, of all levels, involved in negotiations are highly skilled, knowledgeable of the context, empowered, and in their positions for sufficient lengths of time.
- **Maintain separation between humanitarian and political negotiations.** The objectives of these two lines of negotiation are fundamentally different, and mixing them can compromise the impartial, independent, as well as neutral character of humanitarian negotiations.

#### *During negotiations*

- **Build consensus** among all negotiating parties on the **process** and modalities of negotiations.
- **Jointly identify the substantive issues** to be negotiated, keeping in mind that different parties might view the issues differently based on their particular interests, motivations, and needs.
- Use **humanitarian principles, international law, and humanitarian policies** to help **develop options and to assess available options** for possible agreement. The manner in which international law is referenced should be designed in relation to the negotiating counterpart. In some cases, legal arguments may not offer the best entry points for negotiating access.<sup>71</sup>
- **Seek agreement** on the option(s) which arrive(s) at the **best humanitarian outcome**, not necessarily the option(s) which maximize(s) the interests of both parties.
- **Remain principled.** It is essential to remain consistent with the core humanitarian principles in negotiating access. It is often more effective to explain how the organization works and demonstrate an organization's principled approach, rather than simply expounding the principles.

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71 For example, this may be the case in situations in which a State denies the existence of conflict or an NSAG rejects foreign interference. In such cases, it may be more productive to frame negotiations around common interests, cultural or religious norms, personal rapport, or networks of influence.

### *Following negotiations*

- **Clarify criteria for implementing a negotiated agreement.** Where possible conclude negotiations in writing, clarifying the scope of agreements and the mutual obligations of the parties. The agreement should also include a mechanism for handling breaches of obligations or other problems that arise.
- **Identify mechanisms to facilitate joint monitoring and review of implementation of the agreement.**

### **Humanitarian coordination**

In most situations, securing and sustaining humanitarian access is a common concern and endeavour, leading thus to some degree of collective action. In various contexts a shared approach can significantly enhance humanitarian access outcomes. Coordination can help avoid gaps and overlap in assistance, foster organizational synergies, and strengthen advocacy and negotiations. Practitioners can maximize the positive outcomes of coordination by proactively engaging with other organizations and working to overcome the challenges associated with collective action.

However, interagency self-interest, competition, and reluctance to share information can complicate coordination. The presence of a large number of humanitarian organizations in certain contexts, combined with high rates of staff turnover, can cause delays or inconsistencies in the commitment and views of individual organizations. At times, ineffective leadership on coordination can exacerbate the challenges, making it difficult for humanitarians to act collectively.

In their approach to access, practitioners can weigh how coordination is likely to enhance implementation or possibly constrain it. In order to do so, practitioners can:

- Identify the specific ways coordination can support access efforts at different levels, such as information sharing, collective analysis, or joint assessments.
- Assess the potential for effective coordination, looking at factors such as common objectives (e.g. secure access to a specific area, or initiate a dialogue with one particular actor), quality of relationships between organizations, willingness to share information, the role and effectiveness of the Humanitarian Coordinator (HC), Humanitarian Country Team (HCT), and other coordinating actors/mechanisms at national, regional, or local levels.
- Assess the potential benefits and risks of coordinating activities, including for instance positive impact on humanitarian needs versus required investment of resources and time.

## Coordination: Examples from Occupied Palestinian Territories (OPT) and Afghanistan

In June 2008, recognizing the costs and ineffectiveness linked to a lack of coordination on access in OPT, the UN established the Interagency Access Coordination Unit (ACU).<sup>72</sup> The aim of the ACU is to “rationalize, coordinate and consolidate individual efforts being undertaken by UN agencies, international NGO partners and diplomatic missions to address restrictions in the movement of their staff and supplies in the OPT.”

Within a couple of years the ACU was well established and had managed to streamline and make more efficient organizations’ interactions with the Israeli and Palestinian authorities on humanitarian access, as well as supporting development actors with similar access problems. This was achieved largely by establishing working relations with targeted interlocutors in various national departments/units, coordinating interventions on specific access “incidents,” and establishing an after-hours/emergency system to assist with access challenges as they arose.

The ACU is a good example of a mechanism that could be replicated in other contexts. Within the existing restrictive regulatory framework, the ACU’s main success has been to foster and improve engagement on access with all interlocutors, reflecting the common positions of all agencies and INGOs, and not necessarily in reversing policies that were designed to restrict movements.

In Afghanistan (I)NGOs have urged greater separation of humanitarian coordination from political bodies. In particular, the humanitarian coordination mandate was given to UNAMA, the UN’s political mission in Afghanistan. ISAF, NATO’s military force, has also been involved in humanitarian coordination efforts. (I)NGOs have been concerned that the lack of sufficient distinction between political/military and humanitarian endeavours, in general, is a threat to humanitarian work in Afghanistan. They have therefore lobbied for coordination structures to be positioned outside UNAMA and, in particular, for an independent UNOCHA office.

72 See UNOCHA OPT at: <http://acu.ochaopt.org/> [accessed 17 April 2014].

Effective steps were since taken in Afghanistan to better enhance the distinction between humanitarian and political action. These include: physical separation of UN humanitarian offices from others; separating humanitarian negotiations from other negotiations tracks; and developing a humanitarian strategy that includes thematic and geographic prioritization of action rooted in the core humanitarian principles.

*Observations:* A lack of coordination can result in inefficiencies, gaps, and overlap, and can leave single organizations unable to draw upon the leverage of a larger and louder collective voice. On the other hand, to be effective, coordination mechanisms must avoid diluting or compromising the ability of humanitarians to act according to the core humanitarian principles.

When opting for a coordinated approach, practitioners can consider the following modes of action, which are not mutually exclusive:

- **Choose lead person(s).** Leads can have varying degrees of decisional or representational authority.
- **Coordinate at different levels.** Coordination is ideally but not necessarily undertaken at field, country, and regional levels.
- **Allocate tasks.** Set a division of labour among humanitarian organizations according to each organization's comparative advantage.
- **Exchange information.** Information exchange among, organizations, with or without a formal coordination mechanism, almost always enhances the knowledge and analytical capacity of individual organizations.
- **Establish or contribute to an existing access framework and related database.** Collectively feeding a data framework with information related to the factors influencing access can increase knowledge and efficiency among humanitarian actors. The framework can be managed by a single organization.
- **Negotiate jointly.** Developing a common strategy for humanitarian negotiations can, in some instances, improve the chances of achieving negotiated access.
- **Establish or participate in an existing "access cell"/working group.** In specific relevant contexts, an "access cell" can, for example, help to coordinate requests and regular interactions with parties to the conflict and other actors.

**IN FOCUS****The humanitarian coordination system: mandates, structure and role vis-a-vis access**

In humanitarian emergencies, the Emergency Relief Coordinator (ERC) is mandated to “actively [facilitate], including through negotiation if needed, the access by the operational organizations to emergency areas for the rapid provision of emergency assistance.”<sup>73</sup>

In most contexts, the ERC appoints a Humanitarian Coordinator (HC) who is a senior UN official tasked with coordinating humanitarian action. The HC “expends all necessary efforts to obtain free, timely, safe, and unimpeded access by humanitarian organisations to populations in need, where appropriate, by leading and/or promoting negotiations with relevant Parties, including non-State actors.”<sup>74</sup>

A Humanitarian Country Team (HCT) comprised of senior representatives of UN agencies, international organizations, (I)NGOs, and the international Red Cross/Red Crescent Movement (the latter often sitting as observers) is established in most humanitarian emergencies and is a strategic and operational decision-making forum.

UNOCHA is mandated to support the above actors and structures in gaining access. UNOCHA promotes compliance to humanitarian principles, facilitates efforts to monitor and analyse access constraints, and promotes common approaches to resolving access challenges.

In some countries, a specific Access Working Group or ACU supports the HCT through such measures as analysing access constraints, recommending specific actions, and monitoring changes. Where the Cluster approach has been rolled out, Clusters also liaise with the HCT and can play an active role in coordination of access issues.

73 UNGA Resolution 46/182 (1991).

74 IASC, Terms of Reference for the Humanitarian Coordinator (endorsed by IASC Working Group in May 2009).







# Dilemmas of Humanitarian Access

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# 4.1

## Overview

The methodology presented in Section 3 supports humanitarian practitioners in structuring an approach and developing options for securing and sustaining humanitarian access. However, even when using this methodology, practitioners may at times face difficult choices because of the likely consequences of choosing a specific course of action. These are dilemmas of humanitarian access.

This section provides guidance on identifying and working through dilemmas of humanitarian access, and explores three common dilemmas related to:

- negotiations to secure and sustain access
- security of humanitarian personnel and people in need
- working alongside or with military forces.

# 4.2

## Understanding dilemmas

Dilemmas are difficult choices among undesirable options which may involve trade-offs and potential compromises and which include actions that may run counter to the humanitarian principles, the international normative framework, and/or the humanitarian organization's core values or policies. That is, dilemmas challenge the foundations of humanitarian access and/or organizations' ways of working.

More specifically, **dilemmas of principle** involve making difficult choices among options that could, if implemented, entail real or perceived compromises of the core humanitarian principles (presented in Section 2.2). **Normative dilemmas** involve difficult choices among options that could, if implemented, run counter to the international normative framework relating to access (presented in Section 2.3). **Institutional dilemmas** involve difficult choices among options that may involve significant compromise(s) to an organization's core values, policies, practices, culture, ethos, or integrity.<sup>75</sup> A dilemma may be reflected in one or more of these categories.

Some examples of common dilemmas include:

- Negotiating with an NSAG designated by a State/States as a "terrorist" group to secure and sustain humanitarian access and therefore risking legal and financial consequences **VERSUS** not entering into negotiations with the NSAG and likely, as a result, not being able to meet the humanitarian needs of people in areas under the control of the group. (Types of dilemma: principle, normative, institutional.)
- Accepting armed escorts from certain parties to the conflict, which has the potential to influence others' perception of the organization's neutrality **VERSUS** failing to gain access to meet humanitarian needs or exposing staff to high security risk. (Types of dilemma: principle, institutional.)
- Remotely managing a programme with potential consequences for effectiveness, quality, accountability, and risk transference to local staff **VERSUS** continuing in-situ management which may expose some categories of staff to high security risk. (Type of dilemma: institutional.)

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<sup>75</sup> The term "core values or policies" is used hereafter as shorthand to describe the essence of what is at stake in an institutional dilemma.

- Being presented with a demand to accept some degree of control by a party to the conflict over delivery of assistance **VERSUS** refusing all forms of control or interference, which may lead to rejection of the organization by the party controlling access and/or increased security risk for staff. (Types of dilemma: principle, normative, institutional.)

## CASE

**Resource diversion versus armed guards in Central African Republic**

During March 2013, in Central African Republic (CAR) widespread looting, including by parties to the conflict, affected humanitarian organizations, many of which were based in the capital Bangui, where much of the looting took place. Ensuring that humanitarian goods and assets are used solely to assist people most in need is one of the most basic responsibilities of a humanitarian organization. When humanitarian organizations cannot account for how their resources are used, or worse, when their resources fall into the hands of warring groups and therefore potentially fuel conflict, the humanitarian endeavour is compromised. This prospect loomed during and in the wake of the March 2013 violence in CAR, forcing organizations into a dilemma about how to protect their humanitarian goods and assets. Armed protection was available particularly by the main opposition NSAG. However, some organizations felt that accepting this armed protection could compromise their neutrality, or at least the perception of it. Moreover, entering into a relationship in which humanitarian organizations paid for armed protection meant providing financial resources directly to a party to the conflict, and was also potentially dangerous to disengage from at a later stage.

Faced with this dilemma, different organizations made different choices. At least one INGO chose to contract an armed group (that was party to the conflict) to protect its goods and assets, later finding themselves in a situation wherein the armed group sought to maintain the arrangement and demanded significant sums of money under the implicit threat of force. Another INGO weighed the consequences of using armed protection more heavily and resisted doing so. That organization lost significant resources to looters (of unknown affiliation).

*Observations:* In this type of dilemma, it can help to consider short-term versus long-term consequences, as well as the potential spin-off effects of a choice for other organizations. The INGO that chose not to engage armed protection felt that the longer-term risks associated with disengaging from armed protection, as well as the wider impact on neutrality for itself and other organizations, outweighed the short-term gain of protecting its goods and assets.

# 4.3

## Guidance for working through dilemmas



A dilemmas worksheet is available in Annex IV Practical tools. This worksheet is provided to facilitate working through a dilemma.

By working through dilemmas in a methodical way, practitioners can better predict the consequences of the available options. Ultimately, working through a dilemma is about deciding whether or not these consequences are acceptable in relation to the core humanitarian principles, the international normative framework, and organizational core values and policies.

This section includes three points of guidance to assist practitioners in working through dilemmas:

- A. Clarify available options.
- B. Explore consequences and mitigation measures.
- C. Apply thresholds of acceptability.

### Guidance Point A – Clarify available options

**State the dilemma.** As a starting point for working through dilemmas, practitioners can describe the difficult choice presented by the dilemma. For example, in a highly insecure context, a dilemma might be “using armed escorts versus not using armed escorts.”

Practitioners can describe the dilemma by capturing four pieces of information: the

issue around which the dilemma revolves; the choices involved (options); why these choices are undesirable; and what challenges the dilemma poses. This information can be organized in a table as exemplified in Table 9.

**Table 9 – Sample – Understanding a dilemma**

Dilemma – core issue	Choices involved (OPTIONS)	Why undesirable?	Why it poses a challenge? ... and to what?
Armed escorts	GENERAL OPTION: Use armed escorts provided by a party to the conflict.	Can expose organization to perception of working with or supporting one party to the conflict.	Potential challenges to perception of organization's neutrality and independence [principle].
	SAMPLE SPECIFIC OPTION: Only use armed escorts in certain areas and at certain distances in front of or behind humanitarian vehicles.		Potential challenge to organizational values and policies [institutional].
	GENERAL OPTION: Do not use armed escorts.	Potentially exposes personnel to greater security risk.	Potential challenge to organizational posture and policies regarding security management [institutional].
	SAMPLE SPECIFIC OPTION: Negotiate robust security guarantees.		

**Identify all options related to the dilemma.** In the example of “using armed escorts versus not using armed escorts,” there may be various available options for using armed escorts, such as contracting them locally or having them provided by authorities. For “not using armed escorts,” there may be numerous potential options, such as: negotiate robust security guarantees; use low-profile/low-visibility methods to get personnel to the project site; or deploy personnel who will be exposed to a lower level of risk.

See “In Focus: Tapping knowledge and generating ideas” for advice on how to identify options (see page 54).

## Guidance Point B – Explore consequences and mitigation measures

Dilemmas of humanitarian access are distinct from other choices relating to access because the options within them have real or perceived negative consequences related to the foundations of humanitarian access or organizational core values and policies. The options can also have potential positive or negative consequences in terms of humanitarian impact.

For this reason, the next step in working through dilemmas is for practitioners to explore the consequences of the options in the dilemma if they were to be implemented, and measures for mitigating negative consequences.

To explore the consequences of different options and other courses of action in a dilemma, practitioners can start by identifying and assessing the expected **negative effects** that relate specifically to the humanitarian principles, international normative framework, or the organization's core values and policies. This could include, for example, diminished actual or perceived neutrality, or increased security risk to staff or people in need.

Practitioners can then **identify mitigating measures**. In some instances, practitioners can reduce expected negative consequences through measures that alter options and their implementation so that they no longer potentially compromise core humanitarian principles, run contrary to the international normative framework, or breach organizational core values and policies. For example, practitioners can mitigate:

- reduced perceived neutrality by increasing community outreach, or by visibly distancing the organization from parties to the conflict;
- reduced resource accountability by strengthening systems of cross-checking, verification, and control;
- high insecurity by engaging in direct negotiations with those who control the means of violence.

It can also be useful at this stage to identify and assess the expected humanitarian impact of the option(s). If practitioners assess that the implementation of an option in a dilemma would have a very significant, timely, and otherwise unattainable positive impact on humanitarian conditions, the organization may be more inclined to accept the negative consequences.

### Guidance Point C – Apply thresholds of acceptability

The third point of guidance in working through dilemmas is to determine if, during implementation, any of the expected negative consequences would cross a threshold of acceptability (sometimes referred to as a “red line”). These thresholds are the limits of what an organization, or number of organizations acting in coordination, may determine as acceptable in relation to the humanitarian principles, the international normative framework, and/or organizational core values and policies.<sup>76</sup>

Guiding documents such as organizational mission statements, codes of conduct, and policy directives may specify thresholds and the rationale behind them, in general terms. While these documents can offer a starting point, they frequently have to be applied to the particular situation on a case-by-case basis.

Determining whether implementation of an option would cross a threshold may require debate, interpretation, and research within and between humanitarian organizations. In some cases, it may not be possible for practitioners to determine whether a threshold will be crossed prior to implementing an option. In such cases, it is essential for practitioners to closely monitor the consequences of an option post-implementation to avoid eventually crossing a threshold.

Thresholds can be **absolute** or **relative**. A relative threshold is one which may shift in relation to the potential humanitarian impact of the option. For example, an organization may accept somewhat higher security risks associated with an option if humanitarian impact is expected to be very high. In determining relative thresholds, it can be useful to first explore ways to further enhance humanitarian impact.

Thresholds can be defined in different ways, such as:

- a pre-determined percentage of humanitarian goods not accurately accounted for;
- a serious security incident perpetrated by those with whom the humanitarian organization had negotiated access;
- use of the organization’s emblem by a party to the conflict.

An absolute threshold is one which is independent of the potential humanitarian impact. Thresholds established in relation to the humanitarian principles and international normative framework should, in general, be defined as absolute.

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<sup>76</sup> For example, in November 2009, 23 members of the Somalia NGO Consortium signed an “NGO Position Paper on Operating Principles and Red Lines.” This document helped identify thresholds of acceptability for NGOs operating in the extremely violent and difficult context of Somalia.



Compromises of the core humanitarian principles or the international normative framework can have serious and far-reaching consequences for humanitarian organizations (generally more so than in the case of an organization's values or policies). Practitioners should therefore only consider accepting such compromises in exceptional, limited, and time-bound circumstances, based on agreed and clearly defined criteria (within or between organizations) and with full knowledge of the consequences.

When faced with choices that may involve compromise, practitioners can consider:

- Whether there are unique circumstances that warrant, on an exceptional and time-limited basis, compromises to the foundations for access. This might include, for example, immediate and serious threats to the safety, security, health, and well-being of humanitarian personnel or people in need.
- The short- and long-term implications of the action.
- The potential impact on other humanitarian organizations.
- The potential to set a precedent that leads to an organizational culture in which deviation from the foundations of humanitarian access becomes more easily acceptable.
- The potential to set a precedent that increases the expectations of, and hence pressure exerted by, external actors.
- Lessons learnt from previous experiences in order to avoid compromises to the foundations for access.

Once an option is deemed acceptable or not in relation to thresholds, it is important to explain and communicate this decision within and between organizations as well as to other relevant actors. This can help to effectively implement the option, foster consistency related to other choices, and maintain staff morale.

In situations where all of the options cross a threshold, complete disengagement from the context (cessation of humanitarian assistance and protection) may be the only possible course of action. Options that do not cross thresholds of acceptance can be further assessed, prioritized, and compared using the guidance in the Methodology Part II, Step 5.

# 4.4

## Three common dilemmas of humanitarian access

This section presents three common dilemmas of humanitarian access and offers guidance for approaching them:

1. humanitarian negotiations to secure and sustain access;
2. security of humanitarian personnel and people in need;
3. working alongside or with military forces.

### 4.4.1 Humanitarian negotiations to secure and sustain access

Humanitarian practitioners frequently need to negotiate with parties to armed conflict and other actors to secure and sustain humanitarian access (as included in Step 7 of the Methodology). Humanitarian negotiations for that purpose can present practitioners with dilemmas in several areas, two of the most challenging of which are:

- Negotiations with NSAGs when opposed or prohibited by certain actors.
- Separating humanitarian negotiations related to access from other forms of negotiation for other purposes.

The guidance presented here focuses primarily on the first of these dilemmas.

#### **Negotiations with NSAGs when opposed or prohibited by certain actors**

Humanitarian practitioners can face an acute dilemma when some or all of the NSAGs party to an armed conflict with which they may need to negotiate for humanitarian purposes have been designated as, for example, “armed illegal opposition,” “criminal groups,” or “terrorist groups.”<sup>77</sup> Some NSAGs can be designated in this way by different actors, including States and/or inter-governmental organizations. Influential segments of civil society, such as human rights organizations or the media, can also label NSAGs in similar ways, which may generate pressure or influence perceptions that further challenge an organization’s engagement with such groups.

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77 Groups designated in these ways are often referred to as “designated groups.”

In some instances, State and non-State parties to armed conflict, other affected States, and/or donor States may seek to prevent and/or prohibit engagement by a range of actors with these groups. This may be based on political, economic, or security agendas. They may attempt to include humanitarian organizations in these restrictions, even when they are seeking to carry out negotiations to facilitate humanitarian action.

Numerous States have enacted laws to criminalize some forms of engagement with certain “designated” NSAGs, especially those forms of engagement through which support is provided to the group. However, in general, such laws do not prohibit humanitarian negotiations.<sup>78</sup>

States and other actors can also use other means – sometimes even means that are not made explicit – to oppose or prohibit interaction by humanitarian organizations with designated NSAGs. This can include denial of visas/travel permits, donor funding policies and restrictions, and (when the designating entity is a party to the conflict) restricting access to areas controlled by the designated entity.

This is the essence of the dilemma for practitioners: whether to refrain from negotiating with such designated NSAGs to secure and sustain access, and thereby risk not being able to meet humanitarian needs, OR to negotiate with those groups for humanitarian purposes while there may be potential legal contentions, funding, and/or security-related consequences. This dilemma has principled, normative, and institutional dimensions.

The inability of humanitarian practitioners to work through this dilemma has in some cases been enough to deter humanitarian organizations from negotiating with, and hence working in areas under the control of, designated NSAGs.

This dilemma is exacerbated by the lack of awareness among humanitarian practitioners on the provisions of the international normative framework and existing policy guidance concerning humanitarian action that relates to the conduct of humanitarian negotiations. It is also exacerbated by some State and non-State armed groups, other affected States, donors, and/or other influential actors which in some instances disregard or contradict the necessity and basis for humanitarian negotiations with all parties to the conflict (see: In focus: Humanitarian negotiations: What the international normative framework and existing policy guidance say).

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78 A study on the impact of counter-terrorism legislation on humanitarian action published in July 2013 found that of the 15 donor States and the European Union (regional) reviewed, “None of the laws examined [in the study] prohibits contact with terrorist groups for humanitarian purposes.” See: Kate Mackintosh and Patrick Duplat, *Study of the Impact of Donor Counter-Terrorism Measures on Principled Humanitarian Action* (commissioned by UNOCHA and Norwegian Refugee Council (NRC) (New York: United Nations Office for the Coordination of Humanitarian Affairs, July 2013); [https://docs.unocha.org/sites/dms/Documents/CT\\_Study\\_Full\\_Report.pdf](https://docs.unocha.org/sites/dms/Documents/CT_Study_Full_Report.pdf) [accessed 17 April 2014].

## IN FOCUS

**Humanitarian negotiations: What the international normative framework and existing policy guidance say**

The international normative framework and existing policy guidance related to humanitarian action highlight the need for humanitarian negotiations to be undertaken, when necessary, with all parties to armed conflict. Some legally binding rules in different bodies of international law further provide a basis for humanitarian actors to conduct negotiations with all parties to conflict, including NSAGs. Some examples of relevant norms, including legal norms, and policies are provided below.

**International normative framework relating to humanitarian negotiations:**

- In international law, the provisions of numerous resolutions of the UNSC support the need for undertaking humanitarian negotiations with both State and non-State actors.<sup>79</sup>
- In IHL, Article 3 common to the four Geneva Conventions of 1949 (Common Article 3) states that “[a]n impartial body ... may offer its services to the parties to the conflict.” Of particular importance is the fact that common article 3 refers to “Parties to the conflict,” and not only State Parties to the Geneva Conventions – therefore including NSAGs. The offer of services addressed to “Parties to the conflict” – some or all of them – is likely to necessitate some form of engagement with them. If accepted, the mechanisms for availing themselves of a humanitarian organization’s or organizations’ services may need to be negotiated.
- UNGA Resolution A/46/182 (1991) – while not legally binding – explicitly affirms the need for UN humanitarian actors to enter into negotiations, when necessary, with all parties to a conflict in order to facilitate humanitarian action. The UNGA reaffirmed such need in subsequent resolutions.

79 See, for example, UNSC resolutions 1612 (2005), 1882 (2008), 1894 (2009).

### Existing policy guidance relating to humanitarian negotiations:

- Existing policy and operational guidance on humanitarian negotiations with NSAGs state that: “If negotiating with an armed group is deemed a humanitarian necessity, then the designation of that group as a ‘terrorist’ group by some States or institutions should not automatically preclude negotiations with the group. As with negotiations with all armed groups, negotiations with those that employ terror tactics must focus solely on humanitarian issues.”<sup>80</sup>
- Reports of the UN Secretary-General on issues including the protection of civilians in armed conflict, children in armed conflict, and women, peace, and security reaffirm the need for negotiations with all parties to armed conflict. For example, the 2010 report of the UN Secretary-General on the protection of civilians in armed conflict stated that “engagement with armed groups for humanitarian ends is clearly possible and, indeed, necessary in order to negotiate safe humanitarian access to those in need.”<sup>81</sup>

### Guidance

In addition to the general guidance presented in Section 4.3 above, when working through dilemmas around humanitarian negotiations with NSAGs when opposed or prohibited by certain actors, practitioners can:

#### Guidance Point A – Clarify available options

- **Use the international normative framework and existing policy guidance** as they relate to humanitarian access (Section 2.3 and Handbook) and humanitarian negotiations (as presented above) to determine the scope of possible options for humanitarian negotiations with NSAGs.
- Gain a detailed **understanding of the context, including national laws and regulations (including from donor States and intergovernmental organizations)** that may place restrictions on certain forms of engagement with specific NSAGs. Identify those restrictions and their consequences.
- Gain an understanding of ongoing humanitarian initiatives, globally and at a national level, to address the issue of impact of counter-terrorism measures,

80 United Nations, *Humanitarian Negotiations with Armed Groups: A Manual for Practitioners*, p. 73.

81 United Nations Security Council, *Report of the Secretary-General on the protection of civilians in armed conflict*, S/2010/579, 11 November 2010, paragraph 55: <https://docs.unocha.org/sites/dms/Documents/SG%20Report%20on%20PoC%2022%20May%202012.pdf> [accessed 3 September 2014]

which have been adopted in various forms by numerous States, for humanitarian access and humanitarian action more broadly.

- Identify precedents for choices around humanitarian negotiations with certain NSAGs as this may illuminate options that other humanitarian organizations considered or chose. For example, humanitarian organizations have conducted humanitarian negotiations with designated “terrorist” groups in numerous situations, including in Lebanon (2006), the Gaza Strip in the Occupied Palestinian Territories (various times since 2005), Somalia (various times, including 2009), and Afghanistan (2008 – 2011).
- Identify potential options within the two main courses of action in this dilemma: conducting humanitarian negotiations for the purposes of securing and sustaining access, and avoiding humanitarian negotiations related to access with certain NSAGs. For example, within the realm of “avoiding humanitarian negotiations” practitioners can consider options of negotiating with other actors influencing humanitarian access, where appropriate, such as community leaders.

#### **Guidance Point B – Explore consequences and mitigation measures**

- Identify the legal, financial, and operational consequences which certain States and other actors may seek to impose in response to different forms of engagement with identified NSAGs.
- In so doing, consider also **consequences related to financing of humanitarian operations**, including threat of – or actual – loss of funding from certain sources as a result of counter-terrorist clauses in donor regulations or contracts.
- Consider ways to **mitigate the operational, legal, and financial risks**, including, for example:
  - Taking robust measures to ensure and demonstrate that financial and material resources are used solely for their intended humanitarian purposes. This includes undertaking organizational “due diligence” activities in advance of entering into working relationships with humanitarian and other partners.
  - Drawing on precedents (identified under Guidance Point A) to identify possible mitigating actions that were used in other contexts.
  - Maintaining an open dialogue with donors about the organization’s efforts to direct and account for resources, and what exactly may constitute “support” in particular situations.
- Consider **other consequences, such as security risks, associated with**

**conducting humanitarian negotiations with designated groups;** engagement for the purposes of humanitarian negotiations can be badly perceived by other actors (e.g. the national or local government) and it may involve putting staff members in dangerous situations. Such types of risks can only be assessed in the specific context.

- Consider ways to **mitigate potential security risks and consequences,** including, for example, by considering the feasibility of confirming security assurances from the designated group via third party intermediaries.

### **Guidance Point C – Apply thresholds of acceptability**

- Identify thresholds for determining whether the organization can enter into humanitarian negotiations with NSAGs when opposed or prohibited by certain actors in the particular context. The identification of thresholds will be guided by knowledge of relevant national laws; regulations, including those of intergovernmental organizations, and how they work in practice (Guidance Point A above); internal security policies and procedures; organizational working principles, etc.
- If the application of thresholds leads to acceptable options for engaging with certain NSAGs in certain situations, communicate the decision and rationale within the organization. This avoids a situation wherein practitioners operating in or close to the context are unclear about the organization's decision, or are unclear about organizational policies (drawn from relevant provisions of the international normative framework and existing humanitarian policies) to negotiate or not to negotiate with such groups.

### **Separating humanitarian negotiations related to access from other forms of negotiation for other purposes**

Humanitarian practitioners are often presented with situations whereby negotiations to secure and sustain humanitarian access are linked to negotiations for other purposes, such as political negotiations. In some cases humanitarian negotiations are presented as a “soft” starting or entry point through which parties can reach agreement before attempting to reach agreement on non-humanitarian issues around which it may be perceived to be more difficult to secure an agreed outcome.

The main challenge which this may present to core humanitarian principles, and which therefore presents a principled dilemma, is that the objectives or outcomes of humanitarian negotiations could be tied to political or military objectives or outcomes.

In order to preserve the integrity of humanitarian negotiations, their objectives and outcomes – and most desirably the arrangements and processes for humanitarian

negotiations – they should be kept distinct from other negotiations. This is because (1) it is not always the case that the parties to negotiations on political and other issues are the same parties that should be involved in humanitarian negotiations for access; (2) agreements on access should not be constrained or held back by the parties' efforts to seek agreement on other issues; and (3) if the political/other negotiations fail and they are tied to humanitarian negotiations, then it is less likely that humanitarian negotiations can reach a successful conclusion.

## CASE

### **Working through the dilemma of engaging “terrorists” in Colombia**

Counter-terrorism legislation has in some cases caused humanitarian organizations to hold back or scale down their programming in areas where designated groups operate.<sup>82</sup> Although national legislation varies, international and donor counter-terrorism legislation/measures generally do not prohibit contact with such groups. However, some laws and policies do prohibit financial or material support or information to such groups, even if the general intent is humanitarian. This can leave humanitarian organizations at risk and unclear about what constitutes illegal action. The existence of such legislation alone can be a powerful deterrent to humanitarian organizations, as well as to their donors.

In recent years, the FARC rebel group in Colombia has been labeled “terrorist” by the Governments of Colombia, the United States, the European Union, and others. Faced with the legal and financial risks of engaging directly with FARC, at least one humanitarian organization found what they viewed as an acceptable middle ground by building relations with representatives of local communities in FARC-controlled areas. Via local community leaders, the organization ensured that programming information was available to FARC leaders and that the organization would be alerted to security or access relevant information, or directives coming from FARC. In this manner the organization eventually built programme acceptance and at the same time reinforced its security management system by establishing reliable channels of information flow. This strategy also reduced the legal and funding risks associated with working in a territory controlled by a designated “terrorist” group.

82 Kate Mackintosh and Patrick Duplat, *Study of the Impact of Donor Counter-Terrorism Measures on Principled Humanitarian Action*, commissioned by UNOCHA and Norwegian Refugee Council (NRC), July 2013: [https://docs.unocha.org/sites/dms/Documents/CT\\_Study\\_Full\\_Report.pdf](https://docs.unocha.org/sites/dms/Documents/CT_Study_Full_Report.pdf) [accessed 17 April 2014]



*Observations:* One option to manage the legal and funding-related risks of working in areas controlled by designated “terrorists” is to avoid direct engagement and instead engage community representatives. This practice can also have spinoff security and acceptance-building benefits. However, this approach is not ideal, as direct negotiation is always the preferred tactic. This approach should be cautiously implemented since not directly negotiating with those controlling the territory in which an organization intends to work can reduce the solidity of agreements around an organization’s terms of access, and may transfer security and legal risk to community representatives. It can also have the unintended effect of further weakening the norm of direct humanitarian engagement not only for the organization in question but also for other humanitarian actors.

## 4.4.2 Security of humanitarian personnel and people in need

Practitioners frequently encounter two types of dilemma around humanitarian security and humanitarian access. Those associated with:

- security of humanitarian personnel while implementing options to secure and sustain access to people in need.
- security of people in need when seeking to access essential goods and services.<sup>83</sup>

Some dilemmas reflect both aspects, for example, if a humanitarian organization finds itself having to choose between accessing people in need in highly insecure areas versus options for the population in need to access essential goods and services in other, more secure, locations.

The essence of these types of dilemmas is balancing acceptable security risk with the expected humanitarian impact of a particular programme activity. Therefore, this type of dilemma is primarily institutional. In some cases, security risk thresholds are absolute in that no amount of humanitarian impact can justify accepting the security risks associated with implementation of the option. In other cases, the security risk threshold may be relative to the humanitarian impact that can be achieved.

For some humanitarian organizations, security rules and procedures can limit

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<sup>83</sup> These two types of dilemmas reflect the two dimensions of humanitarian access – access by people in need to essential goods and services and access by humanitarian actors to people in need of assistance and protection.

options for securing and sustaining access. For example, humanitarian personnel may be limited in their movements and security procedures may require armed escorts which may have limited availability and capacity.

## Guidance

In addition to the general guidance presented in Section 4.3 above, when working through dilemmas around security of humanitarian personnel and people in need, practitioners can:

### Guidance Point A – Clarify available options<sup>84</sup>

- **Consult with people in need** to gain their perspectives on what they may see as options for access in light of the security situation. This will illuminate the (often informal) security risk analysis which the people in need or their communities may undertake.
- **Conduct scenario planning** related to the likely future status of the security situation. This will assist in having ready a range of prioritized options in light of what can often be a very fluid security environment.

### Guidance Point B – Explore consequences and mitigation measures

- **Continually assess the security situation** and the security risk associated with the available options for access (clarified through Guidance Point A). Consider the likely consequences of options in terms of security risk for humanitarian personnel and for the people whose needs access and subsequent humanitarian assistance and protection are intended to meet.
- **Use agreed and validated organizational or cross-organization systems and criteria** to facilitate assessment of security risk. For example, practitioners can use a security risk assessment and management system which is based on two components of risk: the likelihood of an incident occurring and the impact if such an event were to occur.
- **Identify actions to mitigate** risk associated with various options related to humanitarian security and humanitarian access. Examples of actions to assist in mitigating risk, which are not mutually exclusive and can be pursued concurrently, include: improving context analytical capacity; introducing protective security measures, such as reinforced compounds; increasing acceptance through community outreach; and many others.
- **Explore options for changing the way in which a programme is implemented** as a means of reducing or mitigating potential negative outcomes.

<sup>84</sup> Because the available options will be dependent on the particular context, the information in Guidance Point A is presented at a general level.

This can include, for example, options related to changes in the design of the programme, remote management, and working with new or different partners to implement the programme.

### Guidance Point C – Apply thresholds of acceptability

- **Develop, if not already available, absolute and relative thresholds** within and across organizations for determining whether a particular option is acceptable.<sup>85</sup> Absolute and relative thresholds will be specific to the organization or organizations working together and may or may not be specific to the particular context. For example, an absolute threshold might be a credible threat of kidnapping that cannot be mitigated, whereas a relative threshold might be risk of generalized criminality. The former would be unacceptable regardless of the expected humanitarian impact, while the latter would be more or less acceptable depending on expected humanitarian impact. It is important that when working in coordination, organizations agree common security risk thresholds.
- **Consult with people in need** to determine what their security thresholds may be, particularly for options related to access by people in need to essential goods and services.

## 4.4.3 Working alongside or with military forces

A frequently encountered dilemma of humanitarian access relates to working alongside or with military forces. In this type of dilemma, practitioners must determine whether it is necessary and acceptable to work alongside or with such forces, even under certain tightly defined conditions, or whether they can choose other options which may make it possible to work separate from military forces. This is primarily a principled dilemma.

Military forces can, at times, offer protection to humanitarian organizations through armed escorts or guarding compounds and assets, or more generally by providing area security. Military forces can also enhance the logistical capacity of humanitarian organizations. However, association with military forces can undermine an organization's real or perceived neutrality, independence, and impartiality.

Dilemmas of this nature can arise when a humanitarian organization believes it has no other choice but to work with or alongside military forces or believes that the best humanitarian outcomes will result from doing so.

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<sup>85</sup> In some cases, security risk will be unacceptably high no matter how much humanitarian impact is achievable. This constitutes an absolute risk threshold.

This dilemma may be particularly acute for humanitarian organizations working in the context of an integrated UN presence (contexts with a peacekeeping operation or special political mission) in which the policy and required distinction between the political, security, development, and humanitarian dimensions of the UN's work are not or not well enough implemented and/or are perceived as combined. The same dilemma applies also to other contexts such as in some African Union-led or NATO-led operations.

### Guidance

In addition to the general guidance presented above, when dealing with dilemmas related to working alongside or with military forces, practitioners can:

#### Guidance Point A – Clarify available options<sup>86</sup>

- Refer to existing resources, such as the **UN/IASC Civil-Military Guidelines and Reference for Complex Emergencies (2008)**, as a basis and source of options related to working alongside or with military forces.<sup>87</sup> This document, for example, promotes distinction between humanitarian and military forces, and urges practitioners to avail themselves of military assets only as a last resort.
- **Consider precedents** from experiences in other contexts where certain humanitarian organizations have worked in close proximity to military forces, such as with the Provincial Reconstruction Teams in Afghanistan.

#### Guidance Point B – Explore consequences and mitigation measures

- Gain the perspectives of people in need and their communities as to their perceptions of certain military forces which may be operating in the area. People's perceptions of the military forces will inform their perceptions of humanitarian organizations working alongside or with such forces.
- In accordance with existing civil-military coordination guidelines, develop and implement a range of **activities to avoid and mitigate actual and/or perceived compromise to neutrality, impartiality, and/or operational independence**.<sup>88</sup> These mitigating actions can include, for example, humanitarian organizations:

<sup>86</sup> Because the available options will be dependent on the particular context, the information in Guidance Point A is presented at a general level.

<sup>87</sup> United Nations and IASC, *Civil-Military Guidelines and Reference for Complex Emergencies* (New York: United Nations Office for the Coordination of Humanitarian Affairs, 2008).

<sup>88</sup> See, e.g., *Guidelines on the Use of Foreign Military and Civil Defence Assets in Disaster Relief*, the "Oslo Guidelines" (New York: United Nations Office for the Coordination of Humanitarian Affairs, 2007).

- limiting their association with military forces in scope and time, including through practical and visible separation of humanitarian and military assets; avoiding co-location of humanitarian facilities with those of military forces;
  - avoiding that the military force influences the choices and actions of humanitarians by retaining control and authority over humanitarian activities and assets at all times;
  - avoiding working with or alongside a military force that uses or intends to use the organization's humanitarian aid for propaganda or "hearts and minds" purposes;
  - advocating to political and military actors for a strict distinction between military and humanitarian roles and actions, and setting clear conditions under which exceptional military involvement in providing aid could take place (e.g. no duplication with humanitarian activities, rather infrastructural work than direct provision of aid);
  - remaining consistent in their approach to different military forces in order to maintain real and perceived neutrality.
- Consider the impact of working with or alongside a military force on other humanitarian teams, including the precedent that such a decision may set.

### Guidance Point C – Apply thresholds of acceptability

- Use existing resources, such as the UNI/ASC Civil-Military Guidelines and Reference (mentioned above), to identify criteria for working alongside or with military forces (on an exceptional basis). These criteria can inform development of thresholds. Use guidelines such as the Oslo Guidelines on the use of foreign military and civil defence assets to identify and communicate what may for some organizations be absolute thresholds.<sup>89, 90</sup>
- Consider thresholds related to localized conditions; it may be more acceptable to work with or alongside military forces in some parts of a conflict situation than others. For example, a military armed escort may be more acceptable in an area prone to criminal activity than in an area in which other armed groups perceive the military force as an adversary or as non-neutral.

89 For example, in the Democratic Republic of the Congo (DRC) during 2008-09, some organizations asserted that the United Nations Organization Mission in the DRC (MONUC) was at certain times a party to the armed conflict. Hence any association with that force could reduce an organization's perceived neutrality and increase the risk of attack by opposing forces. On the other hand, in Pakistan during the 2005 earthquake, the Pakistani Government's use of military logistical assets to gain access to earthquake-affected areas was considered by many organizations to be of high value with low risk of lost neutrality, independence, or impartiality.

90 For example, the "Oslo Guidelines" state that "As a matter of principle, the military and civil defence assets of forces that may be perceived as belligerents or of units that find themselves actively engaged in combat in the affected country or region shall not be used to support UN humanitarian activities": <https://docs.unocha.org/sites/dms/Documents/Oslo%20Guidelines%20ENGLISH%20%28November%202007%29.pdf>.

- Weigh the additional humanitarian impact that can be achieved by working with or alongside military forces that would otherwise be unachievable when developing relative thresholds.

### IN FOCUS

#### UN integration<sup>91</sup>

The UN integration policy is defined as “maximizing the individual and collective impact of the context-specific peace consolidation activities of the UN system.”<sup>92</sup> As it relates to humanitarian operations, while UN integration acknowledges that most humanitarian action is falling outside its scope and seeks to protect humanitarian principles, humanitarian space, and humanitarian coordination, the policy has been found to have both positive and negative effects,<sup>93</sup> and may present significant challenges to principled humanitarian action.

The way in which UN integration is operationalized may contribute to suspicion towards humanitarian organizations’ objectives, their independence, and in some cases their neutrality; this applies especially to UN humanitarian agencies, given their particularly close association with non-humanitarian UN entities. These suspicions may increase depending on the way organizations coordinate with or avail themselves of UN mission logistical and security assets, including UN military escorts and armed protection. Using such assets can help to overcome immediate access challenges, but may lead to an over-reliance on protective rather than acceptance-based strategies, and may negatively affect how an organization is perceived.

91 For examples of guidance and recommendations from nongovernmental organizations see: Oxfam International, *Policy Compendium Note on UN Integrated Missions and Humanitarian Assistance*, January 2008, p.2: [http://www.oxfam.org/sites/www.oxfam.org/files/oi\\_hum\\_policy\\_integrated\\_missions\\_0.pdf](http://www.oxfam.org/sites/www.oxfam.org/files/oi_hum_policy_integrated_missions_0.pdf), and NRC, *A partnership at risk? The UN-NGO relationship in light of UN integration*, Norwegian Refugee Council, December 2011: [http://www.nrc.no/archV\\_img/9608308.pdf](http://www.nrc.no/archV_img/9608308.pdf).

92 UN Integrated Assessment and Planning Policy (2013): [http://www.undg.org/docs/13047/UN%20Policy%20on%20Integrated%20Assessment%20and%20Planning\\_FINAL\\_9%20April%202013.pdf](http://www.undg.org/docs/13047/UN%20Policy%20on%20Integrated%20Assessment%20and%20Planning_FINAL_9%20April%202013.pdf).

93 Victoria Metcalfe, Alison Giffen, and Samir Elhawary, *UN Integration and Humanitarian Space: An Independent Study Commissioned by the UN Integration Steering Group*, Humanitarian Policy Group and Stimson Centre, 2011: <http://www.odi.org.uk/sites/odi.org.uk/files/odi-assets/publications-opinion-files/7526.pdf>.

Where integrated presence exists, in order to safeguard humanitarian principles and preserve ability of humanitarian actors to gain access and deliver assistance, the Mission, UN agencies, and humanitarian (I)NGOs must take measures to ensure that:

- Risks to humanitarian action arising from the integrated configuration are properly assessed and adequate mitigating measures are taken.
- The objectives and outcomes of humanitarian and political negotiations remain clearly distinct.
- Humanitarian action is provided strictly according to need, with no political conditions.
- Military assets are used to facilitate humanitarian action only as a last resort and upon request of humanitarians and, when undertaken, military personnel and assets are clearly identified as military; military personnel and assets are used only as long as necessary and humanitarians retain operational independence.
- Public communications make a clear distinction between humanitarian and political action.

## Annex I

### Important rules for humanitarian access<sup>94</sup>

Table 10 – Rules from general international law

SITUATION <sup>95</sup>	PROVISION RELATING TO HUMANITARIAN ACCESS	SOURCE	STATED CRITERIA AND CONDITIONS <sup>96</sup>	ACCESS PARAMETERS
ALL	<p><b>Purposes of the United Nations</b></p> <p>“The Purposes of the United Nations are: to achieve international co-operation in solving international problems of an economic, social, cultural, or humanitarian character, and in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion.”</p>	<p>Charter of the United Nations, Article 1, Paragraph 3</p>	–	–

94 Abbreviations: “IAC” denotes international armed conflict; “OCC” denotes military occupation; “NIAC” denotes non-international armed conflict; “ALL” refers to all types of situation of armed conflict; “GA” denotes UN General Assembly; “GP-IDP” denotes Guiding Principles on Internal Displacement; “GC” denotes Geneva Convention; “AP” denotes Additional Protocol to the Geneva Convention; “CIHL” denotes Customary International Humanitarian Law; “CRC” denotes UN Convention on the Rights of the Child; “ICESCR” denotes International Covenant on Economic, Social and Cultural Rights; “CEDAW” denotes Convention on the Elimination of All Forms of Discrimination against Women; “CRPD” denotes Convention on the Rights of Persons with Disabilities; “CESCR” denotes Committee on Economic, Social, and Cultural Rights; “ICCPR” denotes International Covenant on Civil and Political Rights; “UDHR” denotes the Universal Declaration of Human Rights; “ECHR” denotes European Convention on Human Rights; “ACRWC” denotes African Charter on the Rights and Welfare of the Child; “KC” denotes “Kampala Convention” in reference to the African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa; “RS-ICC” denotes Rome Statute of the International Criminal Court.

95 The situations in which the relevant rules may apply include armed conflict, other situations of violence, and peace.

96 Criteria are standards which must be met in order to trigger an obligation under any of the rules of the normative framework regarding humanitarian access. Conditions are provisions within the normative framework that regulate humanitarian access.



SITUATION	PROVISION RELATING TO HUMANITARIAN ACCESS	SOURCE	STATED CRITERIA AND CONDITIONS	ACCESS PARAMETERS
ALL	<p><b>Principles of the UN organization and its Members</b></p> <p>“The Organisation and its Members, in pursuit of the Purposes stated in Article 1, shall act in accordance with the following Principles:</p> <ol style="list-style-type: none"> <li>1. The Organisation is based on the principle of the sovereign equality of all its Members. [...]</li> <li>4. All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations. [...]</li> <li>7. Nothing contained in the present Charter shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any state or shall require the Members to submit such matters to settlement under the present Charter; but this principle shall not prejudice the application of enforcement measures under Chapter VII.” </li></ol>	<p>Charter of the United Nations, Article 2</p>	<p>–</p>	<p>–</p>
ALL	<p>“Every treaty in force is binding upon the Parties to it and must be performed by them in good faith.”</p>	<p>Vienna Convention on the Law of Treaties (VCLT), Article 26</p>	<p>–</p>	<p>–</p>

SITUATION	PROVISION RELATING TO HUMANITARIAN ACCESS	SOURCE	STATED CRITERIA AND CONDITIONS	ACCESS PARAMETERS
	[Various provisions] <sup>97</sup>	UNSC resolutions [various]	–	–

Table 11 – Examples of UNGA resolutions, guiding principles pertaining to humanitarian access

SITUATION	PROVISION RELATING TO HUMANITARIAN ACCESS	SOURCE	STATED CRITERIA AND CONDITIONS	ACCESS PARAMETERS
ALL	<b>Access to victims essential to humanitarian assistance</b> “States whose populations are in need of humanitarian assistance are called upon to facilitate the work of these organizations in implementing humanitarian assistance, in particular the supply of food, medicines, shelter and health care, for which access to victims is essential.”	GA A/RES/46/182, Paragraph 6	–	<ul style="list-style-type: none"> <li>• <b>By whom:</b> Humanitarian organizations</li> <li>• <b>To whom:</b> Populations in need of assistance</li> <li>• <b>Access to what:</b> Food, medicines, shelter, and health care</li> </ul>

<sup>97</sup> Examples of provisions of UNSC Resolutions concerning humanitarian access include UNSC resolution 1296 (2000) in which the Council underlined the importance of safe and unimpeded access: “Underlines the importance of safe and unimpeded access of humanitarian personnel to civilians in armed conflicts, calls upon all parties concerned, including neighbouring States, to cooperate fully with the [United Nations] in providing such access, invites States and the Secretary-General to bring to its attention information regarding the deliberate denial of such access in violation of international law, where such denial may constitute a threat to international peace and security.” Other resolutions relating to humanitarian access in specific contexts include, for example, UNSC Res. 767 (1992) and 794 (1992) concerning Somalia; UNSC Res. 918 (1994) concerning Rwanda; UNSC Res. 1132 (1997) concerning Sierra Leone; UNSC Res. 1199 (1998) concerning Kosovo.

SITUATION	PROVISION RELATING TO HUMANITARIAN ACCESS	SOURCE	STATED CRITERIA AND CONDITIONS	ACCESS PARAMETERS
ALL	<p><b>Transit of humanitarian assistance</b></p> <p>"7. States in proximity to emergencies are urged to participate closely with the affected countries in international efforts, with a view to facilitating, to the extent possible, the transit of humanitarian assistance."</p>	GA A/RES/46/182, Paragraph 7	Facilitating to the extent possible	<ul style="list-style-type: none"> <li>• <b>Access to what:</b> Emergency areas</li> </ul>
ALL	<p><b>Access by operational organizations to emergency areas</b></p> <p>The Emergency Relief Coordinator [...] responsible for: "Actively facilitating, including through negotiation if needed, the access by the operational organizations to emergency areas for the rapid provision of emergency assistance by obtaining the consent of all Parties concerned, through modalities such as the establishment of temporary relief corridors where needed, days and zones of tranquility and other forms."</p>	GA A/RES/46/182, Paragraph 35(d)	Consent of all parties concerned	<ul style="list-style-type: none"> <li>• <b>By whom:</b> Operational humanitarian organization</li> <li>• <b>Access to what:</b> Emergency areas</li> </ul>

SITUATION	PROVISION RELATING TO HUMANITARIAN ACCESS	SOURCE	STATED CRITERIA AND CONDITIONS	ACCESS PARAMETERS
ALL	<p><b>Offer of services in support of internally displaced persons</b></p> <p>"International humanitarian organizations and other appropriate actors have the right to offer their services in support of the internally displaced. Such an offer shall not be regarded as an unfriendly act or an interference in a State's internal affairs and shall be considered in good faith. Consent thereto shall not be arbitrarily withheld, particularly when authorities concerned are unable or unwilling to provide the required humanitarian assistance."</p>	GP-IDP, Principle 25(2)	When authorities concerned are unable or unwilling to provide the required humanitarian assistance	<ul style="list-style-type: none"> <li>• <b>By whom:</b> Humanitarian organizations</li> <li>• <b>To whom:</b> Internally displaced persons</li> <li>• <b>Access to what:</b> Services in support of internally displaced persons</li> </ul>
ALL	<p><b>Access to internally displaced persons</b></p> <p>"All authorities concerned shall grant and facilitate the free passage of humanitarian assistance and grant persons engaged in the provision of such assistance rapid and unimpeded access to the internally displaced."</p>	GP-IDP, Principle 25(3)	–	<ul style="list-style-type: none"> <li>• <b>By whom:</b> Humanitarian personnel</li> <li>• <b>To whom:</b> Internally displaced persons</li> <li>• <b>Access to what:</b> Humanitarian assistance</li> </ul>

**Table 12 – Rules of international humanitarian law pertaining to humanitarian access**

TYPE OF ARMED CONFLICT	PROVISION RELATING TO HUMANITARIAN ACCESS	SOURCE IN INTERNATIONAL LAW	STATED CRITERIA AND CONDITIONS	ACCESS PARAMETERS
IAC	<p><b>Activities of impartial humanitarian organizations</b></p> <p>“The provisions of the present Convention constitute no obstacle to the humanitarian activities which the International Committee of the Red Cross or any other impartial humanitarian organization may, subject to the consent of the Parties to the conflict concerned, undertake for the protection of civilian persons and for their relief.”</p>	GC IV, Article 10	Subject to consent of the parties to the conflict concerned	<ul style="list-style-type: none"> <li>• <b>By whom:</b> Impartial humanitarian organizations</li> <li>• <b>To whom:</b> Civilian persons</li> <li>• <b>Access to what:</b> Protection and relief</li> </ul>
IAC	<p><b>Wounded and sick – evacuation</b></p> <p>“The Parties to the conflict shall endeavour to conclude local agreements for the removal from besieged or encircled areas, of wounded, sick, infirm, and aged persons, children and maternity cases, and for the passage of ministers of all religions, medical personnel and medical equipment on their way to such areas.”</p>	GC IV, Article 17	–	<ul style="list-style-type: none"> <li>• <b>By whom:</b> Religious ministers, medical personnel</li> <li>• <b>To whom:</b> Wounded, sick, infirm, aged persons, children, maternity cases in besieged areas</li> <li>• <b>Access to what:</b> Medical equipment</li> </ul>

TYPE OF ARMED CONFLICT	PROVISION RELATING TO HUMANITARIAN ACCESS	SOURCE IN INTERNATIONAL LAW	STATED CRITERIA AND CONDITIONS	ACCESS PARAMETERS
IAC	<p><b>Consignment of medical supplies, food, and clothing</b></p> <p>"Each High Contracting Party shall allow the free passage of all consignments of medical and hospital stores and objects necessary for religious worship intended only for civilians of another High Contracting Party, even if the latter is its adversary. It shall likewise permit the free passage of all consignments of essential foodstuffs, clothing and tonics intended for children under fifteen, expectant mothers and maternity cases."</p>	GC IV, Article 23	<p>Consignments intended only for civilians [of another High Contracting Party]</p>	<ul style="list-style-type: none"> <li>• <b>By whom:</b> Civilians</li> <li>• <b>Access to what:</b> Medical and hospital stores, and objects for religious worship; foodstuffs, clothing and tonics for children, expectant mothers and maternity cases</li> </ul>
IAC	<p><b>Application to Protecting Powers and relief organizations</b></p> <p>"Protected persons shall have every facility for making application to the Protecting Powers, the International Committee of the Red Cross, the National Red Cross (Red Crescent, Red Lion and Sun) Society of the country where they may be, as well as to any organization that might assist them.</p> <p>These several organizations shall be granted all facilities for that purpose by the authorities, within the bounds set by military or security considerations."</p>	GC IV, Article 30	<p>Within the bounds set by military or security considerations</p>	<ul style="list-style-type: none"> <li>• <b>By whom:</b> Protected persons</li> <li>• <b>To whom:</b> Protecting powers, ICRC, RC, and organizations that can assist</li> </ul>

TYPE OF ARMED CONFLICT	PROVISION RELATING TO HUMANITARIAN ACCESS	SOURCE IN INTERNATIONAL LAW	STATED CRITERIA AND CONDITIONS	ACCESS PARAMETERS
IAC	<p><b>Protection of objects indispensable to the survival of the civilian population</b></p> <p>"1. Starvation of civilians as a method of warfare is prohibited.</p> <p>2. It is prohibited to attack, destroy, remove or render useless objects indispensable to the survival of the civilian population, such as foodstuffs, agricultural areas for the production of foodstuffs, crops, livestock, drinking water installations and supplies and irrigation works, for the specific purpose of denying them for their sustenance value to the civilian population or to the adverse Party, whatever the motive, whether in order to starve out civilians, to cause them to move away, or for any other motive."</p>	AP I, Article 54	–	<ul style="list-style-type: none"> <li>• <b>By whom:</b> Civilian population</li> <li>• <b>Access to what:</b> Objects indispensable to their survival, such as foodstuffs, means of production of foodstuffs, and drinking water</li> </ul>

TYPE OF ARMED CONFLICT	PROVISION RELATING TO HUMANITARIAN ACCESS	SOURCE IN INTERNATIONAL LAW	STATED CRITERIA AND CONDITIONS	ACCESS PARAMETERS
IAC	<p><b>Relief actions</b></p> <p>"1. If the civilian population of any territory under the control of a Party to the conflict, other than occupied territory, is not adequately provided with the supplies mentioned in Article 69, relief actions which are humanitarian and impartial in character and conducted without any adverse distinction shall be undertaken, subject to the agreement of the Parties concerned in such relief actions. Officers of such relief shall not be regarded as interference in the armed conflict or as unfriendly acts. In the distribution of relief consignments, priority shall be given to those persons, such as children, expectant mothers, maternity cases and nursing mothers, who, under the Fourth Convention or under this Protocol, are to be accorded privileged treatment or special protection.</p> <p>2. The Parties to the conflict and each High Contracting Party shall allow and facilitate rapid and unimpeded passage of all relief consignments, equipment and personnel provided in accordance with this Section, even if such assistance is destined for the civilian population of the adverse Party.</p> <p>—continued</p>	AP I, Article 70	<p>If the civilian population is inadequately supplied</p> <p>Relief actions must be humanitarian, impartial, and conducted without any adverse distinction</p> <p>Subject to agreement of parties concerned in relief actions</p> <p>Subject to parties to the conflict and each High Contracting Party's right to prescribe technical arrangements, and to make permission conditional on the local supervision of a Protecting Power</p>	<ul style="list-style-type: none"> <li>• <b>By whom:</b> Impartial relief personnel</li> <li>• <b>To whom:</b> Civilian population, especially children, expectant mothers, maternity cases, and nursing mothers</li> <li>• <b>Access to what:</b> Relief consignments</li> </ul>



TYPE OF ARMED CONFLICT	PROVISION RELATING TO HUMANITARIAN ACCESS	SOURCE IN INTERNATIONAL LAW	STATED CRITERIA AND CONDITIONS	ACCESS PARAMETERS
	<p>3. The Parties to the conflict and each High Contracting Party which allow the passage of relief consignments, equipment and personnel in accordance with paragraph 2:</p> <p>(a) shall have the right to prescribe the technical arrangements, including search, under which such passage is permitted;</p> <p>(b) may make such permission conditional on the distribution of this assistance being made under the local supervision of a Protecting Power;</p> <p>(c) shall, in no way whatsoever, divert relief consignments from the purpose for which they are intended nor delay their forwarding, except in cases of urgent necessity in the interest of the civilian population concerned.</p> <p>4. The Parties to the conflict shall protect relief consignments and facilitate their rapid distribution.</p> <p>5. The Parties to the conflict and each High Contracting Party concerned shall encourage and facilitate effective international co-ordination of the relief actions referred to in paragraph 1."</p>			

TYPE OF ARMED CONFLICT	PROVISION RELATING TO HUMANITARIAN ACCESS	SOURCE IN INTERNATIONAL LAW	STATED CRITERIA AND CONDITIONS	ACCESS PARAMETERS
IAC	<p><b>Personnel participating in relief actions</b></p> <p>"1. Where necessary, relief personnel may form part of the assistance provided in any relief action, in particular for the transportation and distribution of relief consignments; the participation of such personnel shall be subject to the approval of the Party in whose territory they will carry out their duties.</p> <p>2. Such personnel shall be respected and protected.</p> <p>3. Each Party in receipt of relief consignments shall, to the fullest extent practicable, assist the relief personnel referred to in paragraph 1 in carrying out their relief mission. Only in case of imperative military necessity may the activities of the relief personnel be limited or their movements temporarily restricted.</p> <p>4. Under no circumstances may relief personnel exceed the terms of their mission under this Protocol. In particular they shall take account of the security requirements of the Party in whose territory they are carrying out their duties. The mission of any of the personnel who do not respect these conditions may be terminated."</p>	AP I, Article 71	<p>Subject to the approval of the Party controlling the territory</p> <p>Subject to imperative military necessity</p> <p>Subject to the security requirements of the Party controlling the territory</p>	<ul style="list-style-type: none"> <li>• <b>By whom:</b> Relief personnel</li> <li>• <b>To whom:</b> Civilian population</li> <li>• <b>Access to what:</b> Relief consignments</li> </ul>

TYPE OF ARMED CONFLICT	PROVISION RELATING TO HUMANITARIAN ACCESS	SOURCE IN INTERNATIONAL LAW	STATED CRITERIA AND CONDITIONS	ACCESS PARAMETERS
OCC	<p><b>Food and medical supplies for the population</b></p> <p>“To the fullest extent of the means available to it, the Occupying Power has the duty of ensuring the food and medical supplies of the population; it should, in particular, bring in the necessary foodstuffs, medical stores and other articles if the resources of the occupied territory are inadequate. The Occupying Power may not requisition foodstuffs, articles or medical supplies available in the occupied territory, except for use by the occupation forces and administration personnel, and then only if the requirements of the civilian population have been taken into account. Subject to the provisions of other international Conventions, the Occupying Power shall make arrangements to ensure that fair value is paid for any requisitioned goods.”</p>	GC IV, Article 55	<p>To the fullest extent of the means available to [the Occupying Power]</p> <p>If the resources of the occupied territory are inadequate</p> <p>The Protecting Power shall, at any time, be at liberty to verify the state of the food and medical supplies in occupied territories, except where temporary restrictions are made necessary by imperative military requirements</p>	<ul style="list-style-type: none"> <li>• <b>By whom:</b> The population of the occupied territory</li> <li>• <b>Access to what:</b> Foodstuff, medical stores, and other articles</li> </ul>

TYPE OF ARMED CONFLICT	PROVISION RELATING TO HUMANITARIAN ACCESS	SOURCE IN INTERNATIONAL LAW	STATED CRITERIA AND CONDITIONS	ACCESS PARAMETERS
<b>OCC</b>	<p><b>Hygiene and public health</b></p> <p>"To the fullest extent of the means available to it, the Occupying Power has the duty of ensuring and maintaining, with the cooperation of national and local authorities, the medical and hospital establishments and services, public health and hygiene in the occupied territory, with particular reference to the adoption and application of the prophylactic and preventive measures necessary to combat the spread of contagious diseases and epidemics. Medical personnel of all categories shall be allowed to carry out their duties.</p> <p>If new hospitals are set up in occupied territory and if the competent organs of the occupied State are not operating there, the occupying authorities shall, if necessary, grant them the recognition provided for in Article 18. In similar circumstances, the occupying authorities shall also grant recognition to hospital personnel and transport vehicles under the provisions of Articles 20 and 21.</p> <p>In adopting measures of health and hygiene and in their implementation, the Occupying Power shall take into consideration the moral and ethical susceptibilities of the population of the occupied territory."</p>	GC IV, Article 56	To the fullest extent of the means available to [the Occupying Power]	<ul style="list-style-type: none"> <li>• <b>By whom:</b> The population in the occupied territory</li> <li>• <b>Access to what:</b> Medical and hospital services/facilities</li> </ul>

TYPE OF ARMED CONFLICT	PROVISION RELATING TO HUMANITARIAN ACCESS	SOURCE IN INTERNATIONAL LAW	STATED CRITERIA AND CONDITIONS	ACCESS PARAMETERS
OCC	<p><b>Collective relief</b></p> <p>"If the whole or part of the population of an occupied territory is inadequately supplied, the Occupying Power shall agree to relief schemes on behalf of the said population, and shall facilitate them by all the means at its disposal.</p> <p>Such schemes, which may be undertaken either by States or by impartial humanitarian organizations such as the International Committee of the Red Cross, shall consist, in particular, of the provision of consignments of foodstuffs, medical supplies and clothing.</p> <p>All Contracting Parties shall permit the free passage of these consignments and shall guarantee their protection.</p> <p>A Power granting free passage to consignments on their way to territory occupied by an adverse Party to the conflict shall, however, have the right to search the consignments, to regulate their passage according to prescribed times and routes, and to be reasonably satisfied through the Protecting Power that these consignments are to be used for the relief of the needy population and are not to be used for the benefit of the Occupying Power."</p>	GC IV, Article 59	<p>If the whole or part of the population is inadequately supplied</p> <p>Subject to right of search, to regulation of passage according to prescribed times and routes, and to items not being used for the benefit of the Occupying Power</p>	<ul style="list-style-type: none"> <li>• <b>By whom:</b> States or impartial humanitarian organizations</li> <li>• <b>To whom:</b> The population of the occupied territory</li> <li>• <b>Access to what:</b> Food stuffs, medical supplies, clothing</li> </ul>

TYPE OF ARMED CONFLICT	PROVISION RELATING TO HUMANITARIAN ACCESS	SOURCE IN INTERNATIONAL LAW	STATED CRITERIA AND CONDITIONS	ACCESS PARAMETERS
<b>OCC</b>	<p><b>Responsibilities of the Occupying Power</b>            “Relief consignments shall in no way relieve the Occupying Power of any of its responsibilities under Articles 55, 56 and 59. The Occupying Power shall in no way whatsoever divert relief consignments from the purpose for which they are intended, except in cases of urgent necessity, in the interests of the population of the occupied territory and with the consent of the Protecting Power.”</p>	GC IV, Article 60	–	–
<b>OCC</b>	<p><b>Distribution of relief consignments</b>            “The distribution of the relief consignments referred to in the foregoing Articles shall be carried out with the cooperation and under the supervision of the Protecting Power. This duty may also be delegated, by agreement between the Occupying Power and the Protecting Power, to a neutral Power, to the International Committee of the Red Cross or to any other impartial humanitarian body.            Such consignments shall be exempt in occupied territory from all charges, taxes, or customs duties unless these are necessary in the interests of the economy of the territory. The Occupying Power shall facilitate the rapid distribution of these consignments.            —continued</p>	GC IV, Article 61	<p>[Distribution of relief consignments] carried out with the cooperation and under the supervision of the Protecting Power</p> <p>Subject to agreement between Occupying Power and Protecting Power</p>	<ul style="list-style-type: none"> <li>• <b>By whom:</b> Impartial humanitarian body</li> <li>• <b>Access to what:</b> Transit and transport of relief consignments, free of charge and tax free</li> </ul>

TYPE OF ARMED CONFLICT	PROVISION RELATING TO HUMANITARIAN ACCESS	SOURCE IN INTERNATIONAL LAW	STATED CRITERIA AND CONDITIONS	ACCESS PARAMETERS
<b>OCC</b>	<p>All Contracting Parties shall endeavour to permit the transit and transport, free of charge, of such relief consignments on their way to occupied territories.”</p> <p><b>Basic needs in occupied territories</b>  “1. In addition to the duties specified in Article 55 of the Fourth Convention concerning food and medical supplies, the Occupying Power shall, to the fullest extent of the means available to it and without any adverse distinction, also ensure the provision of clothing, bedding, means of shelter, other supplies essential to the survival of the civilian population of the occupied territory and objects necessary for religious worship.  2. Relief actions for the benefit of the civilian population of occupied territories are governed by Articles 59, 60, 61, 62, 108, 109, 110 and 111 of the Fourth Convention, and by Article 71 of this Protocol, and shall be implemented without delay.”</p>	AP I, Article 69	–	<ul style="list-style-type: none"> <li>• <b>By whom:</b> Civilian population of the occupied territory</li> <li>• <b>Access to what:</b> Clothing, bedding, shelter, and other supplies essential to survival, objects necessary for religious worship</li> </ul>

TYPE OF ARMED CONFLICT	PROVISION RELATING TO HUMANITARIAN ACCESS	SOURCE IN INTERNATIONAL LAW	STATED CRITERIA AND CONDITIONS	ACCESS PARAMETERS
NIAC	<p><b>Conflicts not of an international character</b></p> <p>"In the case of armed conflict not of an international character occurring in the territory of one of the High Contracting Parties, each Party to the conflict shall be bound to apply, as a minimum, the following provisions:</p> <p>(1) Persons taking no active part in the hostilities, including members of armed forces who have laid down their arms and those placed 'hors de combat' by sickness, wounds, detention, or any other cause, shall in all circumstances be treated humanely, without any adverse distinction founded on race, colour, religion or faith, sex, birth or wealth, or any other similar criteria.</p> <p>To this end the following acts are and shall remain prohibited at any time and in any place whatsoever with respect to the above-mentioned persons:</p> <p>a) violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture;</p> <p>b) taking of hostages;</p> <p>c) outrages upon personal dignity, in particular humiliating and degrading treatment;</p> <p>d) the passing of sentences and the carrying out of executions without previous judgment pronounced by a regularly constituted court,</p> <p>—continued</p>	GC I-IV, Common Article 3	–	<ul style="list-style-type: none"> <li>• <b>By whom:</b> Impartial humanitarian body</li> <li>• <b>Access to what:</b> Can offer its services</li> </ul>



TYPE OF ARMED CONFLICT	PROVISION RELATING TO HUMANITARIAN ACCESS	SOURCE IN INTERNATIONAL LAW	STATED CRITERIA AND CONDITIONS	ACCESS PARAMETERS
NIAC	<p>affording all the judicial guarantees which are recognized as indispensable by civilized peoples.</p> <p>(2) The wounded and sick shall be collected and cared for.</p> <p>An impartial humanitarian body, such as the International Committee of the Red Cross, may offer its services to the Parties to the conflict.</p> <p>The Parties to the conflict should further endeavor to bring into force, by means of special agreements, all or part of the other provisions of the present Convention.</p> <p>The application of the preceding provisions shall not affect the legal status of the Parties to the conflict.”</p> <p><b>Protection of objects indispensable to the survival of the civilian population</b></p> <p>“Starvation of civilians as a method of combat is prohibited. It is therefore prohibited to attack, destroy, remove or render useless, for that purpose, objects indispensable to the survival of the civilian population, such as foodstuffs, agricultural areas for the production of foodstuffs, crops, livestock, drinking water installations and supplies and irrigation works.”</p>	AP II, Article 14	-	<ul style="list-style-type: none"> <li>• <b>By whom:</b> Civilian population</li> <li>• <b>Access to what:</b> Objects indispensable to their survival</li> </ul>

TYPE OF ARMED CONFLICT	PROVISION RELATING TO HUMANITARIAN ACCESS	SOURCE IN INTERNATIONAL LAW	STATED CRITERIA AND CONDITIONS	ACCESS PARAMETERS
<b>NIAC</b>	<p><b>Relief societies and relief actions</b></p> <p>"1. Relief societies located in the territory of the High Contracting Party, such as Red Cross (Red Crescent, Red Lion and Sun) organizations may offer their services for the performance of their traditional functions in relation to the victims of the armed conflict. The civilian population may, even on its own initiative, offer to collect and care for the wounded, sick and shipwrecked.</p> <p>2. If the civilian population is suffering undue hardship owing to a lack of the supplies essential for its survival, such as food-stuffs and medical supplies, relief actions for the civilian population which are of an exclusively humanitarian and impartial nature and which are conducted without any adverse distinction shall be undertaken subject to the consent of the High Contracting Party concerned."</p>	AP II, Article 18	<p>If the civilian population is suffering undue hardship</p> <p>Subject to the consent of the High Contracting Party</p>	<ul style="list-style-type: none"> <li>• <b>By whom:</b> Relief societies Impartial humanitarian body</li> <li>• <b>To whom:</b> Victims of armed conflict Civilian population</li> <li>• <b>Access to what:</b> Supplies essential to the survival of the civilian population</li> </ul>
<b>IAC and NIAC</b>	<p><b>Respect for the convention</b></p> <p>"The High Contracting Parties undertake to respect and to ensure respect for the present Convention in all circumstances."</p>	GC I-IV, Common Article 1	–	–
<b>IAC and NIAC</b>	<p><b>Humanitarian relief personnel</b></p> <p>"Humanitarian relief personnel must be respected and protected."</p>	CIHL, Rule 31	–	–

TYPE OF ARMED CONFLICT	PROVISION RELATING TO HUMANITARIAN ACCESS	SOURCE IN INTERNATIONAL LAW	STATED CRITERIA AND CONDITIONS	ACCESS PARAMETERS
IAC and NIAC	<p><b>Humanitarian relief objects</b>            “Objects used for humanitarian relief operations must be respected and protected.”</p>	CIHL, Rule 32	–	–
IAC and NIAC	<p><b>Starvation as a method of warfare</b>            “The use of starvation of the civilian population as a method of warfare is prohibited.”</p>	CIHL, Rule 53	–	–
IAC and NIAC	<p><b>Access for humanitarian relief to civilians in need</b>            “The Parties to the conflict must allow and facilitate rapid and unimpeded passage of humanitarian relief for civilians in need, which is impartial in character and conducted without any adverse distinction, subject to their right of control.”</p>	CIHL, Rule 55	Subject to parties to the conflict right of control	<ul style="list-style-type: none"> <li>• <b>By whom:</b> Impartial humanitarian organization</li> <li>• <b>To whom:</b> Civilians in need</li> <li>• <b>Access to what:</b> Humanitarian relief</li> </ul>
IAC and NIAC	<p><b>Freedom of movement of humanitarian relief personnel</b>            “The Parties to the conflict must ensure the freedom of movement of authorized humanitarian relief personnel essential to the exercise of their functions. Only in case of imperative military necessity may their movements be temporarily restricted.”</p>	CIHL, Rule 56	Temporary movement restriction subject to imperative military necessity	<ul style="list-style-type: none"> <li>• <b>By whom:</b> Authorized humanitarian relief personnel</li> </ul>

**Table 13 – Rules of international human rights law pertaining to humanitarian access**

SITUATION	PROVISION RELATING TO HUMANITARIAN ACCESS	SOURCE IN INTERNATIONAL LAW	STATED CRITERIA AND CONDITIONS	ACCESS PARAMETERS
ALL	<p><b>Right to an adequate standard of living</b></p> <p>“Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control. Motherhood and childhood are entitled to special care and assistance. All children, whether born in or out of wedlock, shall enjoy the same social protection.”</p>	UDHR, Article 25	–	<ul style="list-style-type: none"> <li>• <b>By whom:</b> Everyone, with special care and assistance to motherhood and childhood</li> <li>• <b>Access to what:</b> Standard of living adequate for health and well-being</li> </ul>
ALL	<p><b>Right to life</b></p> <p>“Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life.”</p>	ICCPR, Article 6, Paragraph 1	–	<ul style="list-style-type: none"> <li>• <b>By whom:</b> Every human being</li> </ul>
ALL	<p><b>Torture or cruel, inhuman, or degrading treatment or punishment</b></p> <p>“No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In particular, no one shall be subjected without his free consent to medical or scientific experimentation.”</p>	ICCPR, Article 7	–	–

SITUATION	PROVISION RELATING TO HUMANITARIAN ACCESS	SOURCE IN INTERNATIONAL LAW	STATED CRITERIA AND CONDITIONS	ACCESS PARAMETERS
<p><b>ALL</b></p>	<p><b>Right to adequate standard of living</b></p> <p>"1. The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions. The States Parties will take appropriate steps to ensure the realization of this right, recognizing to this effect the essential importance of international co-operation based on free consent</p> <p>2. The States Parties to the present Covenant, recognizing the fundamental right of everyone to be free from hunger, shall take, individually and through international co-operation, the measures, including specific programmes, which are needed:</p> <p>—<i>continued</i></p>	<p>ICESCR, Article 11</p>	<p>–</p>	<ul style="list-style-type: none"> <li>• <b>By whom:</b> Everyone</li> <li>• <b>Access to what:</b> Adequate standard of living</li> </ul>

SITUATION	PROVISION RELATING TO HUMANITARIAN ACCESS	SOURCE IN INTERNATIONAL LAW	STATED CRITERIA AND CONDITIONS	ACCESS PARAMETERS
ALL	<p>(a) To improve methods of production, conservation and distribution of food by making full use of technical and scientific knowledge, by disseminating knowledge of the principles of nutrition and by developing or reforming agrarian systems in such a way as to achieve the most efficient development and utilization of natural resources;</p> <p>(b) Taking into account the problems of both food-importing and food-exporting countries, to ensure an equitable distribution of world food supplies in relation to need.”</p> <p><b>Right to highest attainable standard of physical and mental health</b></p> <p>“1. The States Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.</p> <p>2. The steps to be taken by the States Parties to the present Covenant to achieve the full realization of this right shall include those necessary for:</p> <p>(a) The provision for the reduction of the still-birth-rate and of infant mortality and for the healthy development of the child;</p> <p>(b) The improvement of all aspects of environmental and industrial hygiene;</p> <p>—<i>continued</i></p>	ICESCR, Article 12	–	<ul style="list-style-type: none"> <li>• <b>By whom:</b> Everyone</li> <li>• <b>Access to what:</b> Highest attainable standard of physical and mental health</li> </ul>

SITUATION	PROVISION RELATING TO HUMANITARIAN ACCESS	SOURCE IN INTERNATIONAL LAW	STATED CRITERIA AND CONDITIONS	ACCESS PARAMETERS
	<p>(c) The prevention, treatment and control of epidemic, endemic, occupational and other diseases;</p> <p>(d) The creation of conditions which would assure to all medical service and medical attention in the event of sickness."</p>			
<b>ALL</b>	<p><b>Right of refugee children to humanitarian access</b></p> <p>"States Parties shall take appropriate measures to ensure that a child who is seeking refugee status or who is considered a refugee in accordance with applicable international or domestic law and procedures shall, whether unaccompanied and accompanied by his or her parents or by any other person, receive appropriate protection and humanitarian assistance in the enjoyment of applicable rights set forth in the present Convention and in other international human rights or humanitarian instruments to which the said States are Parties."</p>	CRC, Article 22, Paragraph 1	–	<ul style="list-style-type: none"> <li>• <b>By whom:</b> A child who is a refugee or seeking refugee status</li> <li>• <b>Access to what:</b> Protection and humanitarian assistance</li> </ul>
<b>ALL</b>	<p><b>Ensuring appropriate services for women in connection with pregnancy</b></p> <p>"States Parties shall ensure to women appropriate services in connection with pregnancy, confinement and the post-natal period, granting free services where necessary, as well as adequate nutrition during pregnancy and lactation."</p>	CEDAW, Article 12(2)	–	<ul style="list-style-type: none"> <li>• <b>By whom:</b> Women</li> <li>• <b>Access to what:</b> Appropriate services in connection with pregnancy, confinement, and in the post-natal period, and nutrition in pregnancy and lactation</li> </ul>

SITUATION	PROVISION RELATING TO HUMANITARIAN ACCESS	SOURCE IN INTERNATIONAL LAW	STATED CRITERIA AND CONDITIONS	ACCESS PARAMETERS
ALL	<p><b>Access to adequate health care and adequate living conditions</b>            “States Parties shall take all appropriate measures to eliminate discrimination against women in rural areas in order to ensure, on a basis of equality of men and women, that they participate in and benefit from rural development and, in particular, shall ensure to such women the right: [...]”</p> <p>(b) To have access to adequate health care facilities, including information, counselling and services in family planning; [...]”</p> <p>(h) To enjoy adequate living conditions, particularly in relation to housing, sanitation, electricity and water supply, transport and communications.”</p>	CEDAW, Article 14(2)	–	<ul style="list-style-type: none"> <li>• <b>By whom:</b> Women in rural areas</li> <li>• <b>Access to what:</b> Participation in rural development, health care, adequate living conditions</li> </ul>
ALL	<p><b>Right to life</b>            “States Parties reaffirm that every human being has the inherent right to life and shall take all necessary measures to ensure its effective enjoyment by persons with disabilities on an equal basis with others.”</p>	CRPD, Article 10	–	<ul style="list-style-type: none"> <li>• <b>By whom:</b> Every human being</li> </ul>
ALL	<p><b>Protection and safety of persons with disabilities</b>            “States Parties shall take, in accordance with their obligations under international law, including international humanitarian law and            —Continued</p>	CRPD, Article 11	–	<ul style="list-style-type: none"> <li>• <b>By whom:</b> Persons with disabilities</li> <li>• <b>Access to what:</b> Protection and safety</li> </ul>



SITUATION	PROVISION RELATING TO HUMANITARIAN ACCESS	SOURCE IN INTERNATIONAL LAW	STATED CRITERIA AND CONDITIONS	ACCESS PARAMETERS
	international human rights law, all necessary measures to ensure the protection and safety of persons with disabilities in situations of risk, including situations of armed conflict, humanitarian emergencies and the occurrence of natural disasters.”			
<b>ALL</b>	<p><b>Right to adequate nutrition</b></p> <p>“1. Everyone has the right to adequate nutrition which guarantees the possibility of enjoying the highest level of physical, emotional and intellectual development.</p> <p>2. In order to promote the exercise of this right and eradicate malnutrition, the States Parties undertake to improve methods of production, supply and distribution of food, and to this end, agree to promote greater international cooperation in support of the relevant national policies.”</p>	Protocol of San Salvador (Additional Protocol to the American Convention on Human Rights in the Area of Economic Social and Cultural Rights), Article 12	–	<ul style="list-style-type: none"> <li>• <b>By whom:</b> Everyone</li> <li>• <b>Access to what:</b> Adequate nutrition</li> </ul>
<b>ALL</b>	<p><b>Protection from torture</b></p> <p>“No one shall be subjected to torture or to inhuman or degrading treatment or punishment.”</p>	ECHR, Article 3	–	–

SITUATION	PROVISION RELATING TO HUMANITARIAN ACCESS	SOURCE IN INTERNATIONAL LAW	STATED CRITERIA AND CONDITIONS	ACCESS PARAMETERS
ALL	<p><b>Right to respect of dignity and recognition of legal status</b></p> <p>“Every individual shall have the right to the respect of the dignity inherent in a human being and to the recognition of his legal status. All forms of exploitation and degradation of man particularly slavery, slave trade, torture, cruel, inhuman or degrading punishment and treatment shall be prohibited.”</p>	African Charter on Human and People’s Rights, Article 5	–	–
ALL	<p><b>Right of child refugees to humanitarian assistance</b></p> <p>“States Parties to the present Charter shall take all appropriate measures to ensure that a child who is seeking refugee status or who is considered a refugee in accordance with applicable international or domestic law shall, whether unaccompanied or accompanied by parents, legal guardians or close relatives, receive appropriate protection and humanitarian assistance in the enjoyment of the rights set out in this Charter and other international human rights and humanitarian instruments to which the States are Parties.”</p>	ACRWC, Article 23, Paragraph 1	–	<ul style="list-style-type: none"> <li>• <b>By whom:</b> A child who is seeking refugee status or who is considered a refugee</li> <li>• <b>Access to what:</b> Protection and humanitarian assistance</li> </ul>

SITUATION	PROVISION RELATING TO HUMANITARIAN ACCESS	SOURCE IN INTERNATIONAL LAW	STATED CRITERIA AND CONDITIONS	ACCESS PARAMETERS
ALL	<p><b>Protection and assistance to internally displaced persons</b></p> <p>“States Parties shall provide sufficient protection and assistance to internally displaced persons, and where available resources are inadequate to enable them to do so, they shall cooperate in seeking the assistance of international organizations and humanitarian agencies, civil society organizations and other relevant actors. Such organizations may offer their services to all those in need.”</p>	<p>KC, Article 5, Paragraph 6</p>	<p>–</p>	<ul style="list-style-type: none"> <li>• <b>By whom:</b> Internally displaced persons</li> <li>• <b>Access to what:</b> Protection and humanitarian assistance</li> </ul>
ALL	<p><b>Relief action for internally displaced persons</b></p> <p>“States Parties shall take necessary steps to effectively organize relief action that is humanitarian, and impartial in character, and guarantee security. States Parties shall allow rapid and unimpeded passage of all relief consignments, equipment and personnel to internally displaced persons. States Parties shall also enable and facilitate the role of local and international organizations and humanitarian agencies, civil society organizations and other relevant actors, to provide protection and assistance to internally displaced persons. States Parties shall have the right to prescribe the technical arrangements under which such passage is permitted.”</p>	<p>KC, Article 3, Paragraph 7</p>	<p>States Parties shall have the right to prescribe the technical arrangements for passage</p>	<ul style="list-style-type: none"> <li>• <b>By whom:</b> Local and international organizations and humanitarian agencies; other relevant actors</li> <li>• <b>To whom:</b> Internally displaced persons</li> <li>• <b>Access to what:</b> All relief consignments, equipment, and personnel</li> </ul>

SITUATION	PROVISION RELATING TO HUMANITARIAN ACCESS	SOURCE IN INTERNATIONAL LAW	STATED CRITERIA AND CONDITIONS	ACCESS PARAMETERS
ALL	<p><b>Prohibition on impeding humanitarian assistance and passage</b>  “Members of armed groups shall be prohibited from: [...]”</p> <p>(b) Hampering the provision of protection and assistance to internally displaced persons under any circumstances; [...]”</p> <p>(g) Impeding humanitarian assistance and passage of all relief consignments, equipment and personnel to internally displaced persons.”</p>	<p>KC, Article 7, Paragraph 5</p>	<p>–</p>	<ul style="list-style-type: none"> <li>• <b>By whom:</b> Internally displaced persons</li> <li>• <b>Access to what:</b> All relief consignments, equipment and personnel</li> </ul>

**Table 14 – Rules of international criminal law pertaining to humanitarian access**

SITUATION	PROVISION RELATING TO HUMANITARIAN ACCESS	SOURCE IN INTERNATIONAL LAW	STATED CRITERIA AND CONDITIONS	ACCESS PARAMETERS
<p><b>ALL</b></p>	<p><b>Genocide</b>                      “For the purpose of this Statute, “genocide” means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such:                      (a) Killing members of the group;                      (b) Causing serious bodily or mental harm to members of the group;                      (c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;                      (d) Imposing measures intended to prevent births within the group;                      (e) Forcibly transferring children of the group to another group.”</p>	<p>RS-ICC, Article 6</p>	<p>–</p>	<p>–</p>

SITUATION	PROVISION RELATING TO HUMANITARIAN ACCESS	SOURCE IN INTERNATIONAL LAW	STATED CRITERIA AND CONDITIONS	ACCESS PARAMETERS
ALL	<p><b>Crimes against humanity</b></p> <p>"For the purpose of this Statute, "crime against humanity" means any of the following acts when committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack:</p> <ul style="list-style-type: none"> <li>(a) Murder;</li> <li>(b) Extirpation;</li> <li>(c) Enslavement;</li> <li>(d) Deportation or forcible transfer of population;</li> <li>(e) Imprisonment or other severe deprivation of physical liberty in violation of fundamental rules of international law;</li> <li>(f) Torture;</li> <li>(g) Rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization, or any other form of sexual violence of comparable gravity;</li> <li>(h) Persecution against any identifiable group or collectivity on political, racial, national, ethnic, cultural, religious, gender as defined in paragraph 3, or other grounds that are universally recognized as impermissible under international law, in connection with any act referred to in this paragraph or any crime within the jurisdiction of the Court;</li> <li>(i) Enforced disappearance of persons;</li> <li>(j) The crime of apartheid;</li> <li>(k) Other inhumane acts of a similar character intentionally causing great suffering, or serious injury to body or to mental or physical health." </li></ul>	RS-ICC, Article 7, Paragraph 1	-	-

SITUATION	PROVISION RELATING TO HUMANITARIAN ACCESS	SOURCE IN INTERNATIONAL LAW	STATED CRITERIA AND CONDITIONS	ACCESS PARAMETERS
<p><b>IAC and NIAC</b></p>	<p><b>War crimes</b>            "2. For the purpose of this Statute, "war crimes" means:            (a) Grave breaches of the Geneva Conventions of 12 August 1949, namely, any of the following acts against persons or property protected under the provisions of the relevant Geneva Convention: [...]            (ii) Torture or inhuman treatment, including biological experiments;            (iii) Willfully causing great suffering, or serious injury to body or health;            (iv) Extensive destruction and appropriation of property, not justified by military necessity and carried out unlawfully and wantonly;</p>	<p>RS-ICC, Article 8, Paragraph 2</p>	<p>–</p>	<p>–</p>

SITUATION	PROVISION RELATING TO HUMANITARIAN ACCESS	SOURCE IN INTERNATIONAL LAW	STATED CRITERIA AND CONDITIONS	ACCESS PARAMETERS
<b>IAC</b>	<p><b>War crimes</b></p> <p>(b) Other serious violations of the laws and customs applicable in international armed conflict, within the established framework of international law, namely, any of the following acts: [...]</p> <p>(iii) Intentionally directing attacks against personnel, installations, material, units or vehicles involved in a humanitarian assistance or peace-keeping mission in accordance with the Charter of the United Nations, as long as they are entitled to the protection given to civilians or civilian objects under the international law of armed conflict; [...]</p> <p>(xx) Intentionally using starvation of civilians as a method of warfare by depriving them of objects indispensable to their survival, including wilfully impeding relief supplies as provided for under the Geneva Conventions; [...]</p>	RS-ICC, Article 8, Paragraph 2	–	<ul style="list-style-type: none"> <li>• <b>By whom:</b> Civilians</li> <li>• <b>Access to what:</b> Objects indispensable to their survival</li> </ul>
<b>NIAC</b>	<p><b>War crimes</b></p> <p>(e) Other serious violations of the laws and customs applicable in armed conflicts not of an international character, within the established framework of international law, namely, any of the following acts: [...]</p> <p>—continued</p>	RS-ICC, Article 8, Paragraph 2	–	–



SITUATION	PROVISION RELATING TO HUMANITARIAN ACCESS	SOURCE IN INTERNATIONAL LAW	STATED CRITERIA AND CONDITIONS	ACCESS PARAMETERS
ALL	<p>(iii) Intentionally directing attacks against personnel, installations, material, units or vehicles involved in a humanitarian assistance or peace-keeping mission in accordance with the Charter of the United Nations, as long as they are entitled to the protection given to civilians or civilian objects under the international law of armed conflict.”</p> <p>“1. The intentional commission of: (a) A murder, kidnapping or other attack upon the person or liberty of any United Nations or associated personnel; (b) A violent attack upon the official premises, the private accommodation or the means of transportation of any United Nations or associated personnel likely to endanger his or her person or liberty; (c) A threat to commit any such attack with the objective of compelling a physical or juridical person to do or to refrain from doing any act; (d) An attempt to commit any such attack; and (e) An act constituting participation as an accomplice in any such attack, or in an attempt to commit such attack, or in organising or ordering others to commit such attack.</p> <p>2. Each State Party shall make the crimes set out in paragraph 1 punishable by appropriate penalties which shall take into account their grave nature.”</p>	Convention of the Safety of United Nations and Associated Personnel, Article 9(1)	-	-

## Annex II

### Sample options related to common constraints

This annex presents sample options for addressing common constraints related to humanitarian access. Please note that this list is not exhaustive. It is intended to stimulate creative thinking and brainstorming.

Factors (affecting access)	Possible Options (to begin addressing factors)
Denial of the existence of humanitarian need or of entitlements to assistance by authorities	<ul style="list-style-type: none"> <li>• Use trainings and other methods to raise awareness of humanitarian obligations under relevant provisions of international law [if due to insufficient awareness].</li> <li>• Clearly and consistently communicate the mandate and objectives of the humanitarian organization.</li> <li>• Use objective and rigorously gathered data to demonstrate humanitarian need.</li> </ul>
Impediments on the entry of agencies, personnel, goods into the country of operations	<ul style="list-style-type: none"> <li>• Engage with Ministry of Foreign Affairs, or equivalent, to (1) clarify procedures and processing times for visas; (2) request multiple-entry visas for humanitarian personnel; (3) identify contingencies if paperwork is delayed (e.g. temporary travel permits); and (4) establish urgent procedures for exceptional circumstances (e.g. entry visa on arrival).</li> </ul>
Restrictions on or interference with the passage of agencies, personnel, goods within the country	<ul style="list-style-type: none"> <li>• Identify and engage key interlocutors at national and local levels to seek ways to ease restrictions.</li> <li>• Within the humanitarian community identify a shared set of procedures for dealing with obstruction of access.</li> <li>• Negotiate a written commitment with relevant authorities (high level) to ensure that access arrangements are consistently communicated to local-level military commanders.</li> <li>• Identify points of contact/communication within armed forces/groups.</li> </ul>
Military operations and ongoing hostilities impeding humanitarian operations	<ul style="list-style-type: none"> <li>• Engage with high-level interlocutors to secure commitment to ensuring humanitarian access, temporary or long term.</li> <li>• Explore ways to facilitate access by the population in need to safe locations for receiving assistance.</li> <li>• Seek guarantees from parties to armed conflict for protection of hospitals, schools, and other civilian facilities.</li> <li>• Seek commitment of accessibility of key routes or alternative modes (air/sea) if obstruction is based on military imperatives.</li> </ul>

Factors (affecting access)	Possible Options (to begin addressing factors)
Violence against humanitarian personnel and facilities	<ul style="list-style-type: none"> <li>• Seek security guarantees with assurance that the chain of command is functional.</li> <li>• Identify in advance channels for emergency communication.</li> <li>• Use risk management techniques that balance humanitarian security with potential humanitarian benefit.</li> </ul>
Interference in the implementation of humanitarian activities	<ul style="list-style-type: none"> <li>• Use trainings and other methods to raise awareness on obligations of parties pertaining to humanitarian assistance under relevant provisions of international law (if due to insufficient awareness).</li> <li>• Engage and negotiate with actors interfering in activities after having gained an understanding of their characteristics, including interests, and their relationships with other influential actors.</li> </ul>
Presence of mines and UXO	<ul style="list-style-type: none"> <li>• Establish strict movement protocols for mined areas.</li> <li>• Establish sustained contact with armed forces/groups to gain security assurances related to mines/UXO.</li> <li>• Establish and use security-related contacts to obtain up-to-date information and tracking and analysis of incidents.</li> </ul>
Physical or environmental constraints	<ul style="list-style-type: none"> <li>• Avoid use of military assets by, for example, pooling resources with other humanitarians to charter an airplane.</li> </ul>
Restrictions on, or obstruction of, conflict-affected populations' access to services and assistance	<ul style="list-style-type: none"> <li>• Obtain detailed information about the obstructions, such as through surveys, town-hall style meetings, review of medical data, etc.</li> <li>• Advocate for the removal of administrative or other barriers, including by referring to legal or other norms as relevant.</li> </ul>
Domestic legislation (including by donor countries) constraining or prohibiting engagement with specific armed groups	<ul style="list-style-type: none"> <li>• Clarify jurisdiction related to any potential legal action and determine if exemptions for humanitarian purposes exist.</li> <li>• Consider less direct forms of engagement with individuals who may be in an intermediary position.</li> </ul>
Restrictive organizational or system-wide security management policies	<ul style="list-style-type: none"> <li>• Build sustained presence and relationships in the planned areas of operation.</li> <li>• Develop strong contextual understanding before undertaking humanitarian activities.</li> <li>• Develop an integrated culture of security management in which all personnel contribute to and take responsibility for security management.</li> <li>• Avoid over-reliance on security advisers for managing security and providing clearance.</li> <li>• Do not accept politically motivated restrictions imposed by donors.</li> </ul>

## Annex III

### Sample listing of humanitarian access indicators

The examples in this table are drawn from or inspired by several sources, including UNOCHA (from Access Monitoring & Reporting Framework),<sup>98</sup> Global Public Policy Institute, ECHO, International Federation of Red Cross and Red Crescent Societies, Inter-Agency Standing Committee (IASC), Afghanistan NGO Safety Project, and the Sphere Project.

Use the following list to help identify relevant indicators related to categories of factors (or constraints) to access and corresponding objectives (stemming from “options”). This list is not exhaustive.

Where possible, it is preferable to coordinate the use of indicators in a particular context with other humanitarian organizations, focusing especially on the first nine categories of indicators. This can help facilitate sector-wide understanding of the access constraints and may feed advocacy efforts to overcome them.

The strongest monitoring systems will combine indicators with other qualitative methods for describing the quality, degree, and nuance of access.

Ref	Factor (affecting access)	Possible Objectives (for options to address factors)	Possible Indicators (to measure success towards objectives)
	General	<ul style="list-style-type: none"> <li>General.</li> </ul>	<ul style="list-style-type: none"> <li>Number of humanitarian organizations with sustained access to intended area/population out of total number of organizations initially seeking access.</li> <li>Apply an “Access Index” that includes multiple indicators to map access to people in need.</li> </ul>
1	Denial of the existence of humanitarian need or of entitlements to assistance by authorities	<ul style="list-style-type: none"> <li>Humanitarian needs of target population recognized.</li> <li>Legal obligations of authorities or warring parties to assist target population recognized.</li> </ul>	<ul style="list-style-type: none"> <li>Number of public statements (and designation of issuing entity/person, if relevant) recognizing needs of target population.</li> <li>Number of private statements (and designation of issuing entity/person, if relevant) recognizing needs of target population.</li> <li>Number of public or private statements of legal obligations to assist (and designation of entity/person, if relevant).</li> </ul>

98 For more details on UNOCHA’s Access Monitoring & Reporting Framework (AMRF), see [http://afgarchive.humanitarianresponse.info/sites/default/files/OCHA\\_Access\\_Monitoring\\_and\\_Reporting\\_Framework\\_OCHA\\_revised\\_May2012.pdf](http://afgarchive.humanitarianresponse.info/sites/default/files/OCHA_Access_Monitoring_and_Reporting_Framework_OCHA_revised_May2012.pdf) [accessed 21 November 2013]. The AMRF also includes the following cross-cutting variables for each category of constraint: sector, type of population affected, type of organization affected, time/date, geographic location and allegedly responsible actor.

Ref	Factor (affecting access)	Possible Objectives (for options to address factors)	Possible Indicators (to measure success towards objectives)
2	Impediments on the entry of agencies, personnel, goods into the country of operations	<ul style="list-style-type: none"> <li>• (I)NGO registration in country attained.</li> <li>• Visas and/or work permits processed successfully and quickly for all applicants.</li> <li>• Imports permitted and released from customs successfully and rapidly.</li> </ul>	<ul style="list-style-type: none"> <li>• Number of days organization NOT registered.</li> <li>• Number of "gap" days in which staff unable to work due to delays or denial of visa or work permit processing.</li> <li>• % of instances of visa denial.</li> <li>• Number of days of imported items held in country prior to release to organization.</li> <li>• Presence and rate of tax on humanitarian goods or personnel.</li> <li>• Financial or time costs related to any of the above.</li> <li>• Comparison of above to previous time periods, other contexts, and/or other organizations.</li> <li>• States or parties to the conflict formal and/or informal policies regarding movements.</li> </ul>
3	Restrictions on or interference with the passage of agencies, personnel, goods within the country	<ul style="list-style-type: none"> <li>• In-country freedom of movement not hindered.</li> </ul>	<ul style="list-style-type: none"> <li>• % of travel authorization delayed or denied.</li> <li>• Number of "gap" days in which staff unable to travel due to delayed or denied travel authorizations.</li> <li>• States' and/or parties to the conflict's formal and informal policies regarding movements.</li> <li>• % of searches of personnel and vehicles</li> <li>• Number of times goods seized.</li> <li>• Number of times goods and/or personnel blocked at checkpoints.</li> <li>• Number of hours spent at checkpoints</li> <li>• Frequency and/or amount of "incentives" provided (officially or unofficially) to facilitate movements.</li> </ul>
4	Military operations and ongoing hostilities impeding humanitarian operations	<ul style="list-style-type: none"> <li>• Access for humanitarian operations negotiated with relevant identified warring parties.</li> <li>• Access by target populations to humanitarian services permitted.</li> </ul>	<ul style="list-style-type: none"> <li>• Frequency, duration, and number of staff evacuated/relocated.</li> <li>• Frequency and duration of suspension of humanitarian activities.</li> <li>• See also indicators under factor #9 below "Restrictions on, or obstruction of, conflict-affected populations' access to services and assistance".</li> </ul>

Ref	Factor (affecting access)	Possible Objectives (for options to address factors)	Possible Indicators (to measure success towards objectives)
5	Violence against humanitarian personnel and facilities	<ul style="list-style-type: none"> <li>• Incidents against humanitarian personnel and assets reduced to low risk factor level.</li> </ul>	<ul style="list-style-type: none"> <li>• Number and nature of security incidents involving humanitarian personnel and/or assets.</li> <li>• Number and % of incidents motivated by political agenda or criminal intent.</li> <li>• Number and % of “wrong time, wrong place” incidents.</li> </ul>
6	Interference in the implementation of humanitarian activities	<ul style="list-style-type: none"> <li>• Planned activities implemented without interference, diversion of resources, or sabotage.</li> <li>• The organization is perceived as principled and not motivated or guided by political or military objectives.</li> <li>• Political and humanitarian activity in-country is kept strictly distinct and is perceived as distinct.</li> </ul>	<ul style="list-style-type: none"> <li>• Time spent addressing issues of interference.</li> <li>• Financial amount and nature of resources/goods diverted or unaccounted for.</li> <li>• Number (or %) of households affected by post-distribution looting.</li> <li>• Number and nature of statements by specific actors (specify) associating humanitarian activities/actors with political or military objectives.</li> <li>• Number and nature of prejudicial statements and/or acts (e.g. discriminatory, racial, etc.) towards humanitarian staff from community leaders, officials, armed personnel, intended beneficiaries, or others.</li> </ul>
7	Presence of mines and UXO	<ul style="list-style-type: none"> <li>• Target population accessible due to elimination of risk from mines, cluster munitions, and other UXO.</li> <li>• Target population not hindered in accessing assistance as a result of mines, cluster munitions, and other UXO.</li> </ul>	<ul style="list-style-type: none"> <li>• Estimated number and % of target beneficiaries accessible and able to access assistance due to elimination/reduction of risk from mines/UXO (or not due to mines/UXO risk).</li> <li>• Estimated time to eliminate risk from mines/UXO in area X.</li> </ul>

Ref	Factor (affecting access)	Possible Objectives (for options to address factors)	Possible Indicators (to measure success towards objectives)
8	Physical or environmental constraints	<ul style="list-style-type: none"> <li>• Target population accessible as a result of overcoming climate, lack of infrastructure, poor roads, airstrips, etc.</li> <li>• Target population not hindered in accessing assistance as a result of physical environment constraints.</li> </ul>	<ul style="list-style-type: none"> <li>• Estimated number and % of target beneficiaries (not) accessible and (not) able to access assistance as a result of (overcoming) physical/environmental constraints.</li> <li>• Estimated time to overcome specific constraint(s) (e.g. to rehabilitate road following rainy season).</li> </ul>
9	Restrictions on, or obstruction of, conflict-affected populations' access to services and assistance	<ul style="list-style-type: none"> <li>• Target population able to move freely and safely to where humanitarian assistance and services are available.</li> <li>• Target population able to receive assistance free from prejudice.</li> </ul>	<ul style="list-style-type: none"> <li>• Estimated number and % of targeted beneficiaries (not) able to access assistance or services (for any reason).</li> <li>• % of sampled population that reports impediments to access assistance or services (disaggregated by type of impediment).</li> <li>• Estimated number of targeted beneficiaries forced away from location of assistance/protection.</li> <li>• Estimated number or % of target population (not) permitted to move to locations where assistance or services provided.</li> <li>• % of target population that successfully accesses humanitarian assistance or services.</li> <li>• Number and nature of prejudicial statements and/or acts (e.g. discriminatory, racial, etc.) towards target population from community leaders, officials, armed personnel, staff, or others.</li> </ul>

Ref	Factor (affecting access)	Possible Objectives (for options to address factors)	Possible Indicators (to measure success towards objectives)
10	Domestic legislation (including by donor countries) constraining or prohibiting engagement with specific armed groups	<ul style="list-style-type: none"> <li>Ability to engage with all relevant armed groups for access negotiation purposes.</li> </ul>	<ul style="list-style-type: none"> <li>Number of and/or relevant armed groups (not) engaged as a result of domestic legislation(s).</li> <li>Estimated number of targeted beneficiaries assisted as a result of engagement with relevant armed groups and/or estimated number of affected people not assisted as a result of non-engagement with relevant armed groups.</li> <li>Addition/removal or change in donor agreement limiting (or enabling) the humanitarian actor's ability to talk to all relevant armed actors.</li> <li>% of territory the humanitarian organization cannot access due to legislation prohibiting contact with certain armed groups.</li> </ul>
11	Restrictive organizational or system-wide security management policies	<ul style="list-style-type: none"> <li>Project team proximate to and integrated with local/host community.</li> </ul>	<ul style="list-style-type: none"> <li>Project team "bunkered" (with very limited or no contact with host community).</li> <li>Degree to which project team identifiable and perceived by local/host community (may require research).</li> </ul>





## Annex IV

### Practical tools

The tools included in this annex are:

- Principles in practice checklist
- Implementation checklist
- Dilemmas worksheet
- Assessing options – scoring exercise
- Access strategy Template

#### Principles in practice checklist

Use this tool to assess the extent to which your organization or coordination group adheres to a principled approach to access. Place a checkmark (✓) next to each “principle in practice” that is represented in the approach to access. For “principles in practice” that are not checked at the end of the exercise, brainstorm ways to address those points towards maximizing the principles in action.

##### ✓ HUMANITY

- Humanitarian access is motivated by no other factor than improving the well-being of those affected by conflict, and serves to identify and/or address essential humanitarian needs.

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- Dignity and rights of all human beings are respected and protected when securing and sustaining access.

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- Access enhances the well-being of civilian populations without making them targets of violence.

##### ✓ IMPARTIALITY

- Choice of population to access and assist is based solely on need, prioritizing those most in need.

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- Identifying those “most in need” is done using objective, non-biased, and fact-based means to the greatest extent possible.

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- Humanitarian access is assessed, secured, and sustained without discriminating on the basis of ethnicity, gender, nationality, political opinions, race, religion, or any other identity characteristic.

**✓ NEUTRALITY**

- Humanitarian actors do not take sides in controversies of a political, religious, or ideological nature.

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- Armed guards/escorts are used only as a last resort. If used, your organization has taken extensive measures to reduce the negative impact of this action on the perception of neutrality.

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- Humanitarian negotiations are conducted independently of political processes (e.g. ceasefire negotiations) and do not endorse any particular political, religious, or ideological view.

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- Practitioners engage with any and all actors with influence on access or target population well-being.

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- Humanitarian assistance is intended for civilians and others not participating in hostilities and does not benefit a particular party to the conflict over another.

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- Advocacy and public positioning is based on factual data and information, and addresses all parties to the conflict even-handedly (recognizing that culpability may not be evenly distributed).

**✓ INDEPENDENCE**

- Humanitarian organizations retain operational control and direction of activities related to securing and sustaining access, excepting conditions permitted under international law.

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- Resource use and allocation are guided solely by the organization's intent to use the most appropriate and effective resources, promptly allocated, for the sole benefit of the identified beneficiary group.

**✓ IN GENERAL humanitarian principles are used to:**

- Guide development of internal policies and decision-making related to securing and sustaining access (including prioritizing options for access).

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- Weigh potential costs and benefits of taking certain actions related to securing and sustaining access.

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- Externally communicate the organization's motivations, objectives, and ethos.

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## Assessing options – scoring exercise

The scoring exercises below are intended to assist practitioners in assessing and prioritizing options by providing methods for comparing options. The rating of options and their particular attributes are necessarily subjective, and the results should therefore be used as a rough comparison or starting point for further discussion and interpretation regarding the merits of each option.

Practitioners choosing to rate options in Step 5: Assess and prioritize options by assigning a score to each option can refer to the “scoring matrix” below to assist.

### Scoring matrix

	Achieves the purpose	Positive effects	Negative effects	Feasibility	Assumptions
<b>5</b>	5 = fully achieves the purpose of humanitarian access as defined in the parameters	5 = very high and long-lasting humanitarian impact plus additional spin-off benefits such as reinforces humanitarian principles, builds relationships, etc.	5 = very low or no expected negative effects or risk of negative effects, including harmful effects, etc.	5 = highly feasible, with low to zero costs, opportunity costs, and risks	5 = no significant assumptions that could affect the implementation of this option
<b>4</b>	4 = mostly achieves the purpose of humanitarian access as defined in the parameters	4 = high humanitarian impact, with other positive effects	4 = low expected negative effects or risk of negative effects	4 = feasible, with low costs, opportunity costs, and/or risks	4 = some assumptions, but none of them critical, likely to affect the implementation of this option
<b>3</b>	3 = achieves a significant part of the purpose of humanitarian access as defined in the parameters	3 = moderate humanitarian impact, with other positive effects	3 = some expected negative effects or risk of negative effects	3 = feasible, but with moderate costs, opportunity costs, and/or risks	3 = several important but not critical assumptions likely to affect the implementation of this option
<b>2</b>	2 = achieves a part of the purpose of humanitarian access as defined in the parameters	2 = moderate humanitarian impact, with no other significant positive effects	2 = significant expected negative effects or risk of negative effects, including harmful effects, compromises, etc.	2 = feasible, but with high costs, opportunity costs, and/or risks	2 = several important and potentially critical assumptions likely to affect the implementation of this option

	Achieves the purpose	Positive effects	Negative effects	Feasibility	Assumptions
<b>1</b>	1 = minimally achieves the purpose of humanitarian access as defined in the parameters	1 = low humanitarian impact, with few or no other significant positive effects	1 = high expected negative effects or risk of negative effects, including harmful effects, compromises, etc., some of which are unacceptable	1 = low feasibility, with very high costs, opportunity costs, and/or risks	1 = numerous assumptions, some of them critical, likely to affect the implementation of this option
<b>0</b>	0 = does not achieve the purpose of humanitarian access as defined in the parameters	0 = no humanitarian impact or other positive effects	0 = very high expected negative effects or risk of negative effects including harmful effects, compromises, etc., some of which are unacceptable	0 = not feasible. Excessive costs, opportunity costs, and/or risks	0 = numerous critical assumptions likely to negatively affect the implementation of this option

### Alternative scoring method

Practitioners can also choose this alternative scoring method if they prefer to rate options using only two of the five possible variables. In this method, practitioners can select and score the two preferred variables from the Scoring matrix above, such as “feasibility” and “positive outcomes.” These can then be plotted on the graph below.

		Positive Outcomes					
		0	1	2	3	4	5
Feasibility	5	0	5	10	15	20	25
	4	0	4	8	12	16	20
	3	0	3	6	9	12	15
	2	0	2	4	6	8	10
	1	0	1	2	3	4	5
	0	0	0	0	0	0	0

## Implementation checklist

Practitioners can use this tool to help ensure that they take appropriate steps prior to, during, and after implementation of options to improve access and related activities. Use the left-hand column to check off that each step has been completed. Use the right-hand column to record notes, such as the names of relevant personnel, time frames, etc.

✓ INTERNAL ORGANIZATION	Notes (who, what, where)
<input type="checkbox"/> Access strategy developed	
<input type="checkbox"/> Level of activity required to implement strategy clarified (field, country, HQ, etc.)	
<input type="checkbox"/> Roles and responsibilities, including focal points, clarified	
<input type="checkbox"/> Time frames clarified, and actions assigned to individuals with relevant timing	
<input type="checkbox"/> Appropriate level of information communicated to relevant personnel internally	
<input type="checkbox"/> System for record keeping established	
<input type="checkbox"/> Adequate logistical preparations made – security related, transport, communications, etc.	
<input type="checkbox"/> Personnel recruited based on competencies with attention to key access-related competencies	
<input type="checkbox"/> Personnel trained and prepared to implement, including sufficient capacity for context analysis, networking, and negotiations	
<input type="checkbox"/> Personnel regularly evaluated against competencies – adjustments made	
<input type="checkbox"/> Human resources configuration adjusted according to field developments	
<input type="checkbox"/> Security management system established, including adequate data/information gathering and analysis	

<input type="checkbox"/>	Security management routinely evaluated to ensure adequate risk identification and mitigation	
<input checked="" type="checkbox"/>	<b>EXTERNAL ENGAGEMENT</b>	<b>Notes (who, what where)</b>
<input type="checkbox"/>	Plan for external engagement developed based on actor analysis – adequate personnel assigned	
<input type="checkbox"/>	Humanitarian negotiations approached systematically and with adequately trained personnel	
<input type="checkbox"/>	Humanitarian negotiations remain principled, rooted in the international normative framework, and follow a structured interest-based approach	
<input type="checkbox"/>	Coordination advantages and disadvantages, objectives, and mechanisms assessed	
<input type="checkbox"/>	Lead humanitarian organization selected (if coordinating efforts between organizations)	
<input type="checkbox"/>	Coordination objectives and mechanisms routinely evaluated	
<input checked="" type="checkbox"/>	<b>MONITORING AND EVALUATION</b>	<b>Notes (who, what, where)</b>
<input type="checkbox"/>	System for monitoring status of access and humanitarian needs established	
<input type="checkbox"/>	Qualitative and quantitative information collection system established, including indicators	
<input type="checkbox"/>	Baseline data collected (consistent with predetermined indicators)	
<input type="checkbox"/>	Personnel identified to manage and analyse information/data	
<input type="checkbox"/>	Decision made regarding coordination with others on M&E	
<input type="checkbox"/>	Access strategy routinely evaluated and adjusted as required	

## Dilemmas worksheet

This worksheet corresponds to the guidance in Section 4 of the Practitioners' Manual.

### 1. STATE THE DILEMMA

Concisely describe the dilemma. Use "versus" if helpful.

### 2. IDENTIFY ALL OPTIONS

List all known potential options or alternatives associated with this dilemma.

### 3. IDENTIFY NEGATIVE CONSEQUENCES

For each option or alternative in Step 2, list all known negative consequences, particularly those that:

- potentially compromise one or more of the core **humanitarian principles**
- run contrary to **international or national laws and norms**
- run counter to the **organization's policies or core values**.



#### 4. IDENTIFY MITIGATION MEASURES

Identify and list ways to mitigate the negative consequences from Step 3.

#### 5. DETERMINE THRESHOLDS OF ACCEPTABILITY

After identifying mitigation measures, list **options** and their **consequences** that would be **unacceptable** in relation to: (1) core humanitarian principles; (2) international or national laws; (3) organizational policies or values. Describe the threshold that is crossed.

If uncertain, list options where a threshold could **potentially** be crossed. What information is needed to determine if a threshold will be crossed? Consider the following:

- Is the threshold determined in relation to humanitarian impact?
- Do (inter-)organizational thresholds need to be clarified? Which ones?
- Can threshold crossing only be determined in practice during or after implementation?

#### 6. COMPARE "ACCEPTABLE" OPTIONS

List the options that do NOT cross thresholds of acceptability. These options, as well as options that could potentially cross a threshold, can be further assessed and compared through Step 5 in the Methodology.

## Access strategy template

For practitioners wishing to develop a written access strategy, this template outlines some of the important elements that can be included. It offers a way of structuring the strategy and, through section titles and references to the Practitioners' Manual, indicates the type of content that practitioners can develop.

ACCESS STRATEGY
DATE/VERSION (draft or final): LOCATION: NAME of organization(s):
AUDIENCE
For whom is the access strategy intended? A brief statement of who should know and understand the strategy, and at what level of the organization the strategy is endorsed.
OVERVIEW
A brief summary description of the access strategy (this can be included at the end of the process).
CONTEXT
<p><b>Humanitarian conditions</b></p> <ul style="list-style-type: none"> <li>• Who is the target population, and what are their needs?</li> <li>• Where are they located?</li> <li>• What are their vulnerabilities, coping mechanisms, etc.? (<i>Methodology/Part 1 Analysis/Step 1 Frame the access context.</i>)</li> </ul> <p><b>Type and nature of armed conflict</b></p> <ul style="list-style-type: none"> <li>• How is the conflict classified under international law?</li> <li>• What is the nature, scale, and intensity of the conflict? (<i>Methodology/Part 1 Analysis/Step 1 Frame the access context.</i>)</li> </ul> <p><b>Normative framework</b></p> <ul style="list-style-type: none"> <li>• What aspects of the international normative framework are relevant to the context?</li> <li>• Can legal provisions be used to further access? (<i>Foundations of Humanitarian Access/The international normative framework; see also Humanitarian Access in Situations of Armed Conflict: Handbook on the International Normative Framework.</i>)</li> <li>• What aspects of national or sub-national laws and norms are relevant to access?</li> <li>• To what extent do these laws support or constrain access?              If they are constraining, what actions are planned to deal with them?</li> </ul>

**Parameters of access**

- Identify the PURPOSE for pursuing humanitarian access.
- Compare the current situation to the desired situation using the access parameters. (*Methodology/Part I Analysis/Step 1 Frame the access context/Parameters.*)

**Factors and actors**

- What are the factors and actors relevant to access?
- What are the “priority” or critical factors?
- Who are the priority actors, what are their characteristics, and what are the relationships between priority actors and others?
- What are the causal factors and associated actors underlying “priority” factors? (*Methodology/Part I Analysis/Step 1 Frame the access context, Step 2 Identify factors and actors, and Step 3 Causal analysis.*)

**PLAN OF ACTION****Options**

- What options are available for gaining or improving access?
- Which options were selected and prioritized? (*Methodology/Part II Design/Steps 4-5.*)

**Objectives**

- What are the objectives of the selected options? Note that each option selected should contribute to achieving the PURPOSE for access (*see Parameters of access above.*)

**Activities**

- What are the specific step-by-step activities related to the selected option(s)?
- Who is responsible, and what is the timeline? (Use e.g. logframe or GANTT to organize activities.)
  - **Negotiations**
    - Is there a specific plan or approach to negotiations within this strategy? (*Methodology/Part III Implementation/Step 9 Manage opportunities and challenges/Humanitarian negotiations.*)
  - **Security management**
    - What are the threats and risks associated with the options in this strategy?
    - What specific security measures are required to pursue the options in this strategy?
    - If risk vs benefit is an important calculation, describe the considerations.

**Humanitarian principles**

- How will the principles be upheld in this strategy?
- How can they be used to help achieve access? (*Foundations of Humanitarian Access/ Core humanitarian principles.*)

**COORDINATION**

- What form of coordination will be sought to enhance this strategy? (*Methodology/Part III Implementation/Step 9 Manage opportunities and challenges/Humanitarian coordination.*)

**DILEMMAS**

If difficult choices and/or compromises have been or have to be made, describe the dilemma(s) and the choice(s). (*Dilemmas of humanitarian access.*)

**MONITORING AND EVALUATION**

(*Methodology/Part III Implementation/Step 7 Monitoring and Evaluation.*)

**Assumptions**

- What assumptions have been made regarding the success or risks related to this strategy?
- Assumptions can be made at various points, such as in the context analysis, expected humanitarian impact, the feasibility of options, security risks, potential compromises, etc. How will these assumptions be tested or monitored during implementation?

**Indicators**

- What indicators will be used to measure access as well as the impact of improved access (particularly related to meeting humanitarian needs)?

**Qualitative and quantitative information**

- What qualitative and quantitative information is required to provide baseline and supplement indicators in monitoring access and humanitarian conditions?

**Evaluation**

- What, if any, form of evaluation is planned to assess the success of this strategy? What is the timing of it?

**IMPLEMENTATION****Roles and responsibilities**

- Who will carry out M&E activities?

**Timeline**

- Timeline for M&E activities (e.g. quarterly monitoring report, mid-term evaluation)

**Resources**

- What resources – human, financial, logistical, security, supplies, or others – are required? (Use e.g. logframe.)

## Annex V

### Additional resources on humanitarian access

#### INTERNATIONAL NORMATIVE FRAMEWORK

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##### International Committee of the Red Cross (ICRC)

- Resources on humanitarian law treaties and regulations, current issues  
[www.icrc.org/eng/resources/index.jsp](http://www.icrc.org/eng/resources/index.jsp)
- ICRC databases on international humanitarian law  
[www.icrc.org/eng/resources/ihl-databases/index.jsp](http://www.icrc.org/eng/resources/ihl-databases/index.jsp)

##### UN Office for the Coordination of Humanitarian Affairs (UNOCHA)

- Humanitarian access resources  
[www.unocha.org/what-we-do/policy/thematic-areas/humanitarian-access](http://www.unocha.org/what-we-do/policy/thematic-areas/humanitarian-access)
- Policy and regulations on the delivery of humanitarian services according to the humanitarian principles  
[www.unocha.org/what-we-do/policy/thematic-areas/humanitarian-engagement](http://www.unocha.org/what-we-do/policy/thematic-areas/humanitarian-engagement)

##### UN Office of the High Commissioner for Human Rights (OHCHR)

- International human rights regulations  
[www.ohchr.org/EN/ProfessionalInterest/Pages/InternationalLaw.aspx](http://www.ohchr.org/EN/ProfessionalInterest/Pages/InternationalLaw.aspx)

#### HUMANITARIAN NEGOTIATIONS

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##### UN Office of Coordination of Humanitarian Affairs (UNOCHA)

- Manual and field guidelines for practitioners on humanitarian negotiations with armed groups  
[www.ochaonline.un.org/humanitariannegotiations/index.html](http://www.ochaonline.un.org/humanitariannegotiations/index.html)

##### Overseas Development Institute (ODI)

- Overcoming major obstacles to humanitarian access  
[www.odi.org.uk/events/3175-overcoming-aid-access-obstacles-icrc-humanitarian-hpg](http://www.odi.org.uk/events/3175-overcoming-aid-access-obstacles-icrc-humanitarian-hpg)
- Humanitarian negotiations with State actors and Non-state actors  
[www.odi.org.uk/events/3366-humanitarian-negotiations-ansa-rebel-access](http://www.odi.org.uk/events/3366-humanitarian-negotiations-ansa-rebel-access)
- Humanitarian Exchange Magazine issue focused on negotiations with non-State actors  
[www.odihpn.org/humanitarian-exchange-magazine/issue-58](http://www.odihpn.org/humanitarian-exchange-magazine/issue-58)
- Humanitarian negotiations with non-State actors  
[www.odi.org.uk/projects/2430-humanitarian-negotiations-non-state-armed-militia-rebel](http://www.odi.org.uk/projects/2430-humanitarian-negotiations-non-state-armed-militia-rebel)

##### Conflict Dynamics International

- Web portal with resources that serves as a global repository of information and resources on humanitarian negotiations  
[www.humanitariannegotiations.org/about/](http://www.humanitariannegotiations.org/about/)
- CDI Humanitarian Negotiations Initiative and Training information. Reference Handbook - CDI  
[www.cdint.org/humanitarian-negotiations.htm](http://www.cdint.org/humanitarian-negotiations.htm)

## HUMANITARIAN POLICY NOTES AND BRIEFS

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### UN Office for the Coordination of Humanitarian Affairs (UNOCHA)

- Policy Action in Humanitarian Aid, Policy developments and guidance on UNOCHA and humanitarian access, integration, and civil-military coordination.  
*[www.unocha.org/what-we-do/policy/overview](http://www.unocha.org/what-we-do/policy/overview)*
- Information sharing system that provides practitioners with case studies, lessons learned, updates on humanitarian access, policy papers, and specific policy guidance on humanitarian issues.  
*[reliefweb.int/](http://reliefweb.int/)*

### ODI – Humanitarian Policy Group (HPG)

- Analysis, dialogue and debate on issues of humanitarian policy and practice, including publications related to humanitarian access and humanitarian negotiations.  
*[www.odi.org/programmes/humanitarian-policy-group/our-work](http://www.odi.org/programmes/humanitarian-policy-group/our-work)*

### Oxfam International

- Policy notes describing key issues for humanitarian organizations, divided by relevant themes  
*[www.oxfamamerica.org/publications/oxfam-international-humanitarian-policy-notes](http://www.oxfamamerica.org/publications/oxfam-international-humanitarian-policy-notes)*

## INFORMATION AND MAPS ON HUMANITARIAN ACCESS FOR SPECIFIC CONTEXTS

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### Reliefweb

- Maps from different regions and countries  
*[reliefweb.int/maps](http://reliefweb.int/maps)*

### Ref World UNOCHA

- UNOCHA department with maps representing different humanitarian situations across the globe  
*[www.refworld.org/publisher/OCHA.html](http://www.refworld.org/publisher/OCHA.html)*

## SECURITY AND RISK MANAGEMENT

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### UNDSS

- Security trainings and resources for personnel in the field  
*[training.dss.un.org/consultants/index.php](http://training.dss.un.org/consultants/index.php)*
- Incidents information logging system  
*[UNDSS country office website](http://UNDSS.country.office.website)*

### ICRC

- Staying Alive: Safety and Security Guidelines. Indicators to assess the safety of NGOs operating in Afghanistan and their exposure to risks  
*[www.icrc.org/eng/resources/documents/publication/p0717.htm](http://www.icrc.org/eng/resources/documents/publication/p0717.htm)*

### Afghan NGO Security Office

- Indicators to assess security  
*[www.ngosafety.org](http://www.ngosafety.org)*

### ODI – HPG

- Operational security management in violent environments, in *Good Practice Review*, Number 8, December 2010  
*[www.odihpn.org/index.php?option=com\\_k2&view=item&layout=item&id=3159](http://www.odihpn.org/index.php?option=com_k2&view=item&layout=item&id=3159)*

### Security Management Initiative (SMI)

- Resource center for risk and security management of NGOs and international agencies working in hostile environments, including research, training and advisory services.  
*[www.securitymanagementinitiative.org/](http://www.securitymanagementinitiative.org/)*

## INDICATORS AND ASSESSMENTS

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### Search for Common Ground

- Designing for Results: Integrating Monitoring and Evaluations in Conflict Transformation Programs  
[www.sfcg.org/programmes/ilt/ilt\\_manual-page.html](http://www.sfcg.org/programmes/ilt/ilt_manual-page.html)

### USAID

- Performance Monitoring & Evaluation Tips: Selecting Performance Indicators  
[dmeforpeace.org/sites/default/files/USAID%20Tips.pdf](http://dmeforpeace.org/sites/default/files/USAID%20Tips.pdf)
- Theories of Change and Indicator Development in Conflict Management and Mitigation  
[dmeforpeace.org/sites/default/files/Nan%20and%20Mulvihill\\_Theories%20of%20Change%20and%20Indicator%20Development.pdf](http://dmeforpeace.org/sites/default/files/Nan%20and%20Mulvihill_Theories%20of%20Change%20and%20Indicator%20Development.pdf)

### ODI

- A guide to monitoring and evaluating policy influence  
[www.odi.org.uk/publications/5252-monitoring-evaluation-me-policy-influence](http://www.odi.org.uk/publications/5252-monitoring-evaluation-me-policy-influence)

### UN Office for the Coordination of Humanitarian Affairs (UNOCHA)

- Framework that provides a structure for monitoring and reporting in humanitarian access and includes a set of indicators grouped by constraint  
[afgarchive.humanitarianresponse.info/sites/default/files/OCHA\\_Access\\_Monitoring\\_and\\_Reporting\\_Framework\\_OCHA\\_revised\\_May2012.pdf](http://afgarchive.humanitarianresponse.info/sites/default/files/OCHA_Access_Monitoring_and_Reporting_Framework_OCHA_revised_May2012.pdf)

### IASC Inter-Agency Standing Committee

- Operation and guidance for coordinated assessments in humanitarian crises  
[docs.unocha.org/sites/dms/CAP/ops\\_guidance\\_finalversion2012.pdf](http://docs.unocha.org/sites/dms/CAP/ops_guidance_finalversion2012.pdf)

## ICRC

- Guidelines on how to carry out an assessment and provide a framework in which the assessment can be used  
[www.ifrc.org/Global/Publications/disasters/guidelines/guidelines-emergency.pdf](http://www.ifrc.org/Global/Publications/disasters/guidelines/guidelines-emergency.pdf)
- Resource that contains a detailed emergency items catalogue  
[procurement.ifrc.org/catalogue/](http://procurement.ifrc.org/catalogue/)

### Sphere Project

- Humanitarian standards in context  
[www.sphereproject.org/handbook/](http://www.sphereproject.org/handbook/)
- Humanitarian Policy Group at ODI. Needs Assessment and Decision-Making in the Humanitarian Sector. Report analysing the link between needs assessment and decision-making in the humanitarian sector  
[www.odi.org.uk/sites/odi.org.uk/files/odi-assets/publications-opinion-files/285.pdf](http://www.odi.org.uk/sites/odi.org.uk/files/odi-assets/publications-opinion-files/285.pdf)
- Humanitarian Practice Network. Common Needs Assessment. Network paper analysing common needs assessment (CNA) and humanitarian action.  
[www.odihpn.org/documents/networkpaper069.pdf](http://www.odihpn.org/documents/networkpaper069.pdf)

## ESTABLISHING THRESHOLDS

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### Norwegian Refugee Council

- Supports principled humanitarian action. This report contains an analysis of compromises and “red lines” drawn by organizations  
[www.nrc.no/arch1\\_img/9662774.pdf](http://www.nrc.no/arch1_img/9662774.pdf)

### NGO Consortium – Somalia

- Document that reflects some key red lines established by an NGO consortium in Somalia, and how to facilitate information sharing regarding these red lines  
[somalianoconsortium.org/docs/key/5/2012/1334569242.pdf](http://somalianoconsortium.org/docs/key/5/2012/1334569242.pdf)

## RELEVANT METHODOLOGIES AND TOOLS

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### United Nations Children's Fund (UNICEF)

- Policy guidance and publications on advocacy in children's rights  
[www.unicef.org/policyanalysis/index.html](http://www.unicef.org/policyanalysis/index.html)

### The Sphere Project

- Handbook and guiding principles for humanitarian actors in disaster and conflict response  
[www.sphereproject.org/handbook/](http://www.sphereproject.org/handbook/)
- Publications on humanitarian standards, humanitarian principles, and humanitarian aid  
[www.sphereproject.org/resources/](http://www.sphereproject.org/resources/)

### UN Office of the High Commissioner for Human Rights (OHCHR)

- Guides and tools on general principles on human rights violations  
[www.ohchr.org/EN/PublicationsResources/Pages/ReferenceMaterial.aspx](http://www.ohchr.org/EN/PublicationsResources/Pages/ReferenceMaterial.aspx)

### MSF

- MSF charter and principles  
[www.msf.org/msf-charter-and-principles](http://www.msf.org/msf-charter-and-principles)
- MSF book on humanitarian negotiations experiences in different countries  
[www.msf-crash.org/livres/en/humanitarian-negotiations-revealed](http://www.msf-crash.org/livres/en/humanitarian-negotiations-revealed)

### Office of Coordination of Humanitarian Affairs (UNOCHA)

- To Stay and Deliver: Good practice for humanitarians in complex emergencies, 2011  
[ochanet.unocha.org/p/Documents/Stay\\_and\\_Deliver.pdf](http://ochanet.unocha.org/p/Documents/Stay_and_Deliver.pdf)

### Norwegian Refugee Council

- Tools to support principled humanitarian action  
[www.nrc.nolarch/\\_img/9662774.pdf](http://www.nrc.nolarch/_img/9662774.pdf)

### Inter-Agency Standing Committee (IASC)

- Needs Assessment Tools; Key Humanitarian Indicators. System-wide needs assessment tools in emergency and humanitarian situations  
[www.humanitarianinfo.org/iasc/page-loader.aspx?page=content-products-products&sel=28](http://www.humanitarianinfo.org/iasc/page-loader.aspx?page=content-products-products&sel=28)





## Glossary of key terms

This glossary lists select terms used in this manual and throughout the process of seeking to gain or improve humanitarian access. Other glossaries of terms used in humanitarian assistance more broadly have been developed by the United Nations Office for the Coordination of Humanitarian Affairs (UNOCHA)<sup>99</sup> and the ReliefWeb Project.<sup>100</sup> In addition, UNOCHA has developed a concise glossary of terms related to cessation of hostilities and other aspects of humanitarian access.<sup>101</sup>

### Actors (influencing access)

The individuals, humanitarian agencies, NSAGs, commercial entities, States and their armed forces, criminal gangs, donors, affected people in need of assistance and protection, or others who influence the situation of access.

### Criteria and conditions

Criteria refer to elements that must be present in order to trigger an obligation under any rule of the normative framework regarding humanitarian access. Conditions refer to provisions within the normative framework that regulate humanitarian access.

### Dilemma

A difficult choice between undesirable options that involve trade-offs and potential compromises, and that appear to require actions that run counter to the humanitarian principles, the normative framework, and/or the humanitarian organization's policies or core values.

### Factors (influencing access)

Elements that influence humanitarian access. Factors can be enabling or constraining, external or internal to an organization, and can be related to an affected population's access or an organization's access.

### Foundations (of humanitarian access)

The basis for seeking, securing, and sustaining humanitarian access, consisting of (1) the core humanitarian principles and (2) the international normative framework.

99 UNOCHA, *Glossary of Humanitarian Terms related to the Protection of Civilians in Armed Conflict*, UOCHA, Policy Development and Studies Branch, 2003: [http://www.securitymanagementinitiative.org/index.php?option=com\\_docman&task=doc\\_details&gid=446&lang=en&Itemid=28](http://www.securitymanagementinitiative.org/index.php?option=com_docman&task=doc_details&gid=446&lang=en&Itemid=28) [accessed 17 April 2014].

100 ReliefWeb, "Glossary of Humanitarian Terms," Relief Web Project, August 2008: [http://reliefweb.int/sites/reliefweb.int/files/resources/4f99A3C28EC37D0EC12574A4002E89B4-reliefweb\\_aug2008.pdf](http://reliefweb.int/sites/reliefweb.int/files/resources/4f99A3C28EC37D0EC12574A4002E89B4-reliefweb_aug2008.pdf) [accessed 17 April 2014].

101 UNOCHA, *Glossary of Terms: Pauses during conflict*, Office for the Coordination of Humanitarian Affairs Policy, June 2011: <https://docs.unocha.org/sites/dms/Documents/AccessMechanisms.pdf> [accessed 17 April 2014].

**Functional area**

A collection of activities around a common function, often organized in “departments” or “units” within an organization. Functional areas can be used to facilitate identifying access options or alternatives and organizing their implementation.

**Humanitarian access**

Access by humanitarian actors to people in need of assistance and protection and by those in need to the goods and services essential for their survival and health, in a manner consistent with core humanitarian principles.

**Humanitarian negotiations**

Negotiations undertaken by civilians engaged in managing, coordinating, and providing humanitarian assistance and protection for the purposes of (1) ensuring the provision of protection and humanitarian assistance to vulnerable populations; (2) preserving humanitarian space; and (3) promoting better respect for international law.

**Non-state armed groups**

Groups which have the potential to employ arms in the use of force to achieve political, ideological, or economic objectives, which are not within the formal military structures of States, State alliances, or intergovernmental organizations, and are not under control of the State(s) in which they operate. (UN)

**Options**

Actions practitioners and/or organizations can take towards achieving access or improving a population’s access to essential goods and services, with the ultimate goal of improving the humanitarian condition of a target population.

**Parameters (of humanitarian access)**

The elements used to describe the current and aspirational scope of humanitarian access.

**Relationship mapping**

A visual depiction of the links between different influencing actors.

**Thresholds**

The limits of what an organization, or number of organizations acting in coordination, may determine as an acceptable course of action. Thresholds are generally defined in relation to the humanitarian principles, the international normative framework, or organizational policies and core value. Sometimes referred to as “red lines.”

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