



Humanitarians Under Attack: Tensions, Disparities, and Legal Gaps in Protection

Julia Brooks

Executive Summary

Humanitarian professionals working in complex environments face increasing threats and attacks that endanger their lives, violate international humanitarian law, and jeopardize the consistent and effective delivery of emergency relief to populations in need. In light of these issues, this paper explores challenges and opportunities related to the predominant organizational approaches to the protection of aid workers in complex and insecure environments, and highlights often overlooked disparities in the risks faced by different groups of humanitarian professionals based on their status as national or international staff, gender, and organizational affiliation. It argues that insufficient attention has thus far been paid to the significance of these disparities and their implications for operational security and effectiveness. Furthermore, it highlights significant fragmentation and gaps in the protection of aid workers under international law and the culture of impunity prevailing for perpetrators of such attacks. It then examines the recent trends in humanitarian security management — namely, acceptance, protection, and deterrence. Finally, it offers reflections for the humanitarian community on improving the state of knowledge, practice and law with regard to the protection of humanitarian professionals.

Introduction

Given that aid workers operate in complex and insecure settings, some security risks are inherent to humanitarian action. Yet recent years have seen a significant increase, in absolute terms, in deliberate attacks against aid workers. Indeed, violence reached record rates in 2013, with 155 aid workers killed, 178 seriously wounded, and 141 kidnapped globally, compared to 70 killed, 115 seriously wounded and 92 kidnapped in 2012.¹ High levels of violence against humanitarian actors continued in 2014, when at least 119 were killed, 87 wounded, and 129 kidnapped.² The increase in recent years is primarily attributable to a small number of extremely violent contexts; the most attacks in 2013 occurred in Afghanistan, followed in decreasing order by Syria, South Sudan, Pakistan, and Sudan.³

Since data on aid worker security incidents began to be systematically collected in the late 1990s, security risks have grown steadily, compounded by the growth of humanitarian operations in protracted conflict areas, the changing nature of modern war in which civilians frequently fall victim to targeted or indiscriminate attacks, the growth and proliferation of

¹ Abby Stoddard, Adele Harmer, and Kathleen Ryou, “Aid Worker Security Report 2014 - Unsafe Passage: Road Attacks and Their Impact on Humanitarian Operations” (Humanitarian Outcomes, August 2014), <https://aidworkersecurity.org/sites/default/files/Aid%20Worker%20Security%20Report%202014.pdf>.

² “The Aid Worker Security Database (AWSDB),” *Humanitarian Outcomes*, n.d., <https://aidworkersecurity.org/>. The numbers are still being verified so are likely subject to change.

³ Abby Stoddard, Adele Harmer, and Kathleen Ryou, “Aid Worker Security Report 2014.”

non-state armed groups, and the spread of violent extremist ideologies that oppose fundamental tenets of the international legal order and the humanitarian system. These factors combine to put humanitarian workers at risk of deliberate or indiscriminate attack. Such violence against humanitarian workers not only endangers lives and violates international law but also jeopardizes the consistent and effective delivery of aid to those in need by leading to restrictions on humanitarian access and proximity to vulnerable populations or countenancing the withdrawal of aid entirely.

This paper examines the complexities of managing risks to humanitarian worker security in the field. Part I discusses recent trends in aid worker security; highlights often overlooked disparities — based on status as national or international staff, gender, and organizational affiliation — in the risks faced by different humanitarian professionals; and examines the significant fragmentation and gaps that exist in the protection of aid workers under international law. Part II examines predominant organizational strategies for managing security risks, including *acceptance*, *deterrence*, and *protection*. Highlighting tensions for principled humanitarian action in insecure settings, it considers the advantages and disadvantages of these approaches. Part III offers recommendations for the humanitarian community on addressing the legal protection gaps and disparities in staff vulnerability and protection, and improving the state of knowledge and practice in the protection of humanitarian professionals in complex and insecure settings.

I. Tensions and Disparities in Humanitarian Worker Security

Insufficient attention has thus far been paid to disparities in humanitarian worker security and their implications for operational security and effectiveness. Regardless of the factors that drive security risks, humanitarian organizations have both a legal and an ethical duty of care for their staff, especially those deployed to the field.⁴ This duty of care applies to all staff members, yet significant disparities exist within and across agencies in terms of the protection of aid workers from violence. Indeed, individual attributes such as status as national or international staff, gender (i.e., the sex of the aid worker or the portfolio of humanitarian issues on which they work), and organizational affiliation (i.e., United Nations (UN), non-governmental organization (NGO), or Red Cross/Red Crescent), all affect the vulnerability and protection of aid workers. This section presents existing data that has been collected about these issues and raises questions for further research and analysis.

a. Disparities between National and International Staff

In terms of protection inequalities between humanitarian workers, those based on status as international versus national staff are well documented and yet often insufficiently accounted for in security management.⁵ On the one hand, international staff members are found to

⁴ See Lisbeth Claus, “International Assignees at Risk: Employers Have a Duty of Care for Workers around the Globe,” *HR Magazine*, February 2010, <https://www.internationalsos.com/en/files/DoC-lklaus.pdf>; Larisa Fast, *Aid in Danger: The Perils and Promise of Humanitarianism* (Philadelphia, Pennsylvania: University of Pennsylvania Press, 2014, 2014), 143–44.

⁵ A number of reports have highlighted the issue of security for national humanitarian workers; see, e.g., J. Fawcett and V. Tanner, “The Security of National Staff: Towards Good Practices” (Washington DC: InterAction, 2001); Leslie Leach and Cedric Hofstetter, “Safer Access,” *Magazine of the*

receive greater attention in terms of security training, security measures and resources, media, and operational decision-making.⁶ This is due in part to the differential status of international staff compared to national staff in general — they tend to have higher living standards, pay scales, and the possibility of emergency evacuation in case of serious security threats — as well as a perception of heightened security risks for internationals as compared to national staff. In part, the greater attention paid to the security of international staff may be justified by a higher *per capita* rate of attack; although international staff make up less than 10%, on average, of aid workers, they suffered 13% of attacks in 2014.⁷

There are many reasons for this disparity, foremost the prevalence of national staff in the field, and as a consequence, their frequent positioning on the frontlines of operations (e.g., locally or nationally hired drivers, guards, and community mobilisers).⁸ In absolute numbers, national staff members make up the vast majority (over 90%) of humanitarian workers in the field, and accordingly, it is they who suffer the vast majority of attacks perpetrated against aid workers. In 2013, 87% of attacks affected national staff, with the most common types of attacks being shootings, kidnappings, and bodily assault.⁹ Humanitarian organizations sometimes rely on national staff out of necessity (e.g., in response to difficulties in securing access for international staff, including after expulsion of international aid workers by host states), or as a result of specific operational decision-making (e.g., financial reasons, or the evacuation of international staff from particularly dangerous areas). Furthermore, national staffers are often presumed to be more familiar with the local context, more able to blend in or move more freely, or more connected to local networks of influence and protection mechanisms (e.g., through communal, family, or tribal ties).¹⁰

Yet, organizations have systematically underestimated the security threats faced by national staff based on the assumption — sometimes founded, sometimes not — that nationals are better equipped to protect themselves by virtue of their local connections and understanding, or better aware of local threats. At the extreme, as one report notes, organizations may rely on the false assumption “that a national staffer will be able to work securely anywhere in the country because he or she does not stand out as being visibly foreign.”¹¹ This report concludes, “In truth, of course, locals may perceive nationals from another region or province to be just as much of an outsider, and their association with certain ethnic or religious groups, clan affiliation or economic privilege may even put them at additional risk.”¹²

International Red Cross and Red Crescent Movement, March 2004,
http://www.redcross.int/EN/mag/magazine2004_3/20-21.html.

⁶ See Abby Stoddard, Adele Harmer, and Katherine Haver, “Providing Aid in Insecure Environments: Trends in Policy and Operations” (Humanitarian Policy Group, Overseas Development Institute, 2006), <http://www.odi.org/sites/odi.org.uk/files/odi-assets/publications-opinion-files/269.pdf>.

⁷ Abby Stoddard, Adele Harmer, and Kathleen Ryou, “Aid Worker Security Report 2014.”

⁸ Abby Stoddard, Adele Harmer, and Katherine Haver, “Aid Worker Security Report 2011 - Spotlight on Security for National Aid Workers: Issues and Perspectives” (Humanitarian Outcomes, August 2011), <https://aidworkersecurity.org/sites/default/files/AidWorkerSecurityReport2011.pdf>.

⁹ Abby Stoddard, Adele Harmer, and Kathleen Ryou, “Aid Worker Security Report 2014,” 3.

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

¹¹ Abby Stoddard, Adele Harmer, and Katherine Haver, “Aid Worker Security Report 2011,” 9.

¹² *Ibid.*

Many national staff members have expressed that their security is under-prioritized at the organizational level.¹³ Others have accused agencies of valuing expatriate lives over national staff, and therefore affording them greater security protections.¹⁴ This issue of prioritization is reflected by the discrepancies that exist between nationals and internationals in terms of access to training and security-related resources, despite nationals' higher exposure to risk.¹⁵ In recent years, many organizations have improved the security trainings and resources available to both international and national staff, yet the required investments in time and money continue to pose a challenge for various organizations, in particular, smaller NGOs and local partners.¹⁶

b. Lack of Information on Gender-Related Disparities

Serious gaps also remain in both knowledge and practice on gender-related disparities in aid worker security. Indeed, very little research has been conducted on the possible gendered nature of attacks on humanitarian workers, including the different vulnerabilities or resiliencies of male and female aid workers, the disparate impact of threats or attacks on male or female aid workers on operational decision-making, or particular vulnerabilities of humanitarian practitioners who work on gender-related issues.¹⁷ Moreover, gender information related to security incidents is invariably underreported. Gender information is not available for 56% of victims documented in the Humanitarian Outcomes' Aid Worker Security Database (AWSD), for instance, since most security incident reports submitted from the field do not report on the victims' sex or professional portfolio, though field workers are encouraged to provide this information.¹⁸ This lack of information makes it difficult to disaggregate sector-wide security trends by the sex of the aid workers or the portfolio of humanitarian issues on which these professionals worked, which would help to tailor security responses to the unique challenges and risks faced by different professionals in the field.

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

¹³ Claude Bruderlein and Pierre Gassmann, "Managing Security Risks in Hazardous Missions: The Challenges of Securing United Nations Access to Vulnerable Groups," *Harvard Human Rights Journal* 19 (2006), <http://hpcrresearch.org/sites/default/files/publications/bruderlein.pdf>.

¹⁴ See Didier Fassin, *Humanitarian Reason: A Moral History of the Present* (Berkeley: University of California Press, 2012).

¹⁵ Abby Stoddard, Adele Harmer, and Katherine Haver, "Providing Aid in Insecure Environments."

¹⁶ Abby Stoddard, Adele Harmer, and Katherine Haver, "Aid Worker Security Report 2011."

¹⁷ Rachel Irwin, "Violence Against Healthcare Workers in Complex Security Environments," SIPRI Background Paper (Stockholm International Peace Research Institute, November 2014), http://books.sipri.org/product_info?c_product_id=484#.

¹⁸ Abby Stoddard, Adele Harmer, and Kathleen Ryou, "Aid Worker Security Report 2014"; "The Aid Worker Security Database (AWSD)". Gender information is available in the database for 1,473 victims (42%) of attacks from 1997 to 2014, of which 1,265 (86%) are reported as male and 208(14%) as female.

areas or when traveling on the road (the numbers are skewed by vehicle accidents, where the majority of drivers are men).¹⁹ Gaul et al. also found that male and female aid workers face unique risks: men face a higher likelihood of violent confrontation, whereas women face a higher likelihood of sexual assault or harassment.²⁰ Moreover, Wille and Fast suggest that security incidents affecting men had a greater impact on operational decisions and aid delivery.²¹ This difference might be due to the greater proportion of men who work in the field, more serious risks facing men, or the fact that the victimization of men is simply taken more seriously in operational decision-making. However, the lack of gender-disaggregated data — on the number of male and female aid workers in the field, including national and international staff, and the number of men and women affected by security incidents — makes it difficult to reach definitive conclusions.

c. Legal Protection Fragmented Along Organizational Lines

Significant disparities in aid worker security also arise along organizational lines, creating notable gaps in the protection of aid workers under international law. Indeed, the patchwork of international humanitarian law (IHL) relating to the security of humanitarian personnel in situations of armed conflict produces a hierarchy of legal protections that privileges certain categories of aid workers above others, while leaving the majority of aid workers with largely civilian protection.²² The overall situation facing humanitarian organizations is, as noted by one publication of the International Committee of the Red Cross (ICRC), that “the personnel of humanitarian organizations are protected in an unequal manner and that the rules intended to guarantee their security are very widely scattered, thus leading to a lack of clarity about the exact scope of such protection.”²³ This fragmentation of humanitarian security under IHL has further encumbered efforts at persuading states and non-state actors to recognize and abide by the law protecting humanitarian actors, as well as to bring justice to the perpetrators of attacks.

The first, strongest tier of international legal protection for humanitarian workers applies only to “UN and associated personnel,” who under the 1994 Convention on the Safety of UN and Associated Personnel, “shall not be made the object of attack or of any action that prevents them from discharging their mandate”[Art. 7(1)].²⁴ The Convention further defines crimes

¹⁹ Christina Wille and Larissa Fast, “Aid, Gender and Security: The Gendered Nature of Security Events Affecting Aid Workers and Aid Delivery” (Insecurity Insight, 2011), <http://www.insecurityinsight.org/files/Security%20Facts%20%20Gender.pdf>.

²⁰ Alexis Gaul et al., “NGO Security: Does Gender Matter?,” Capstone Seminar in International Development (Save the Children; The George Washington University, May 8, 2006), <http://www.alnap.org/pool/files/ngo-security-does-gender-matter-2006-40200.pdf>. For another study that notes the relevance of gender considerations, see Emily Speers Mears, “Gender and Aid Agency Security Management,” SMI Professional Development Brief (Security Management Initiative (SMI), July 2009), <http://www.gcsp.ch/content/download/6446/59653/download>.

²¹ Christina Wille and Larissa Fast, “Aid, Gender and Security.”

²² On international legal mechanisms to protect humanitarians, see Fast, *Aid in Danger*, 197–207.

²³ See International Committee of the Red Cross (ICRC), “Respect for and Protection of the Personnel of Humanitarian Organizations,” January 19, 1998, <https://www.icrc.org/eng/resources/documents/misc/57jp85.htm>.

²⁴ UN General Assembly, *Convention on the Safety of United Nations and Associated Personnel*, 1994, <http://www.un.org/law/cod/safety.htm>.

against UN and associated personnel [Art. 9], and obliges states parties to “take all appropriate measures to ensure the safety and security of United Nations and associated personnel”[Art. 7(2)]. Following the 2003 attack on the UN headquarters in Baghdad, Iraq, the UN Security Council unanimously adopted Resolution 1502 (2003), reaffirming that attacks knowingly and intentionally directed against humanitarian or peacekeeping personnel “constitute war crimes,” thus reinforcing the obligations of states under IHL to promote their safety, security, and freedom of movement.²⁵ The 2005 Optional Protocol to the Convention then expanded of the scope of “operations” covered by the Convention to include a wider set of UN operations and associated personnel, namely those focused on: “(a) delivering humanitarian, political or development assistance in peacebuilding, or (b) delivering emergency humanitarian assistance.”²⁶

The second tier of protection derives from the four Geneva Conventions of 1949, which confer special rights and protections — through the use of the distinctive Red Cross/Red Crescent emblem — on medical services of armed forces, civilian hospitals in wartime, and affiliates of the International Red Cross and Red Crescent Movement (including national societies, the International Federation of Red Cross and Red Crescent Societies (IFRC), and the ICRC). Such persons and objects are solely entitled to use the Red Cross/Red Crescent emblem, a recognized and protected symbol under IHL. Deliberate attacks against a person or object carrying the distinctive emblem constitute war crimes under international law. IHL strictly limits the use of the distinctive emblem to these protected persons and objects, as outlined in the Conventions [GC I, art. 44]; strictly prohibits its use by other individuals or organizations [GC I, art. 53]; and requires states to prevent and repress its misuse [GC I, art. 54]. Additional Protocol I to the Geneva Conventions further prohibits any improper or perfidious use of the emblem [AP I, art. 37 and 38]. Perfidious uses include misusing the distinctive emblem to deceive the enemy, which is considered a grave breach of the Convention and Additional Protocol [AP I, art. 85(3)(f)].

The third tier of protection encompasses all other humanitarian personnel. Additional Protocol I requires that, in international armed conflicts, the party receiving relief supplies shall, to the fullest extent practicable, protect and facilitate relief operations [AP I, art. 70]. Personnel participating in relief actions shall also be respected and protected to the fullest extent practically possible, though under no circumstances may relief personnel exceed the terms of their mission [AP I, art. 71]. Additional Protocol II, applicable in situations of non-international armed conflict, contains no such protections. However, the Rome Statute of the International Criminal Court (ICC) does define intentional attacks against humanitarian personnel and assets as war crimes in both international [Art. 8(2)(b)(iii) and (xxiv)] and non-international armed conflicts [Art. 8(2)(e)(ii) and (iii)]. As non-combatants, humanitarian professionals also benefit from general civilian protection under IHL.

As this overview of relevant international legal provisions indicates, the law itself enforces disparities between aid workers along individual and organizational lines, creating a hierarchy of protection that privileges UN and associated personnel, and to a lesser extent Red Cross/Red Crescent personnel, above others. “In doing so,” writes Fast, these laws “highlight

²⁵ United Nations, “Security Council Resolution 1502 (2003)” (Security Council, August 26, 2003), <http://www.iccnw.org/documents/SCRes1502.pdf>.

²⁶ UN General Assembly, *Optional Protocol to the Convention on the Safety of United Nations and Associated Personnel*, 2005, <https://www.ifrc.org/docs/idrl/1263EN.pdf>.

the tension between protecting aid workers and the populations they assist and codify the internal hierarchies that characterize the aid system, both within agencies (between national and international staff) and within the system itself (between different aid actors).”²⁷

Security incident statistics seem in many ways congruent with these tiered legal protections, yet the lack of disaggregated data between the Red Cross/Red Crescent and NGOs make their relative vulnerabilities difficult to determine. For instance, Humanitarian Outcomes reports that local NGOs and national Red Cross/Red Crescent Societies suffered the most attacks in 2013 (43% of attacks), followed by international NGOs (28%), UN agencies (24%), and the ICRC (3%).²⁸ However, without data on the general distribution of aid workers across agencies in the field, it is difficult to determine whether these numbers amount to disproportionate rates of attack. More disaggregated data is thus needed to determine whether a significant correlation exists between the protections afforded to different types of humanitarian organizations in the law, and the number and kinds of attacks perpetrated against them, holding other factors constant (such as operating locations, types of work carried out, types of security strategy adhered to, or organizational appetite for risk).²⁹ Agencies should be encouraged to collect and share these data.

Furthermore, this fragmentation of humanitarian security under IHL has further encumbered efforts at implementing and enforcing protections for aid workers from attack. For one, there is often a lack of clarity or understanding of the scope and application of these various legal provisions. Second, as Fast underlines, “[these] legal instruments put responsibility for the protection of aid workers in the hands of states, which in many contexts is inadequate. State compliance in relation to prosecuting perpetrators or even in complying with responsibility under the various conventions can break down, especially in violent contexts.”³⁰ Indeed, many of the most insecure operating environments for humanitarians — including Afghanistan, Syria, South Sudan, and Sudan — are characterized by armed insurgencies and state fragility or collapse.³¹ Thus, while awareness of the need for more effective security management in response to attacks against humanitarian workers is growing, very few perpetrators of attacks against humanitarian personnel or facilities have been prosecuted, whether as a result of unclear legal status, lack of state capacity during or after an armed conflict, lack of investigation or reporting at the time of the incident, or a lack of political will or outside

²⁷ Fast, *Aid in Danger*, 199.

²⁸ Abby Stoddard, Adele Harmer, and Kathleen Ryou, “Aid Worker Security Report 2014.”

²⁹ Humanitarian Outcomes’ 2012 Aid Worker Security Report found host states’ responsibilities to be poorly understood: “Interviews for this research confirm that high level agreements on paper are rarely directly relevant to security on the ground. Many aid agency staff concede that they don’t know the details of Host State Agreements or other resolutions, and neither do the local security authorities in the (often remote) areas where they operate. While there is an understanding that the state is responsible for the safety and security of aid workers, these responsibilities are not articulated in any detail within the agreements, and can be widely interpreted or ignored by the host state and international aid actors alike.” See Abby Stoddard, Adele Harmer, and Morgan Hughes, “Aid Worker Security Report 2012 - Host States and Their Impact on Security for Humanitarian Operations” (Humanitarian Outcomes, December 2012), <https://www.humanitarianoutcomes.org/sites/default/files/resources/AidWorkerSecurityReport2012.pdf>.

³⁰ Fast, *Aid in Danger*, 198.

³¹ Abby Stoddard, Adele Harmer, and Kathleen Ryou, “Aid Worker Security Report 2014.”

pressure.³² As a consequence, there remains a great need to address the prevailing culture of impunity for perpetrators and to deter future attacks through enhanced implementation, application, and enforcement of the law, as well as the creation of additional legal protections to fill existing gaps in the law. This includes the development of expanded legal protections for aid workers, and strengthening the legal obligations upon states and non-state actors to prevent and punish such attacks.

Given the numerous indicators of disparities in aid worker security outlined above, further research and analysis is also needed to test prevailing assumptions and anecdotal evidence about the vulnerabilities and resiliencies of aid workers as a result of their national or international status, gender, and organizational affiliation, as well as their portfolios, organizational roles, or positioning in the field. For instance, there is a need for increased empirical understanding of the differential security threats faced by staff, as well as how they access information about threats and how they situate themselves within protective networks and mechanisms. With this improved understanding, organizations will be better able to identify protection gaps and tailor their security management strategies to the differential needs of their staff, thus mitigating operational insecurity and upholding their duty of care.

II. Organizational Approaches to Security Management

Humanitarian organizations have attempted to cope with these legal and operational protection gaps in a variety of ways, foremost being security management approaches. As articulated by the Office for the Coordination of Humanitarian Affairs (OCHA) in its landmark 2011 report, *To Stay and Deliver*, a policy of risk management, as opposed to risk aversion, “focuses on ‘how to stay’ as opposed to ‘when to leave’— has been adopted in the UN system and by many organisations.”³³ These organizational approaches to security management are most commonly characterized as falling along the so-called “security triangle,” which balances elements of *acceptance*, *deterrence*, and *protection*.³⁴ In reality, agencies typically adopt a combination of elements of each strategy, balancing organizational policy, values, and capacity against local conditions. While each of these approaches offers particular advantages in complex and insecure settings, they may also give rise in practice to tensions with the humanitarian principles, especially neutrality, impartiality, and independence. This, in turn, can paradoxically jeopardize the very staff security, access, and proximity to beneficiaries that these strategies seek to enhance. The following sections highlight these operational dilemmas.³⁵

³² See Lindsay Suttner, “Curing the Humanitarian Crisis: Resolution 1502,” *Wash. U. Global Stud. L. Rev.* 4, no. 1 (2005): 187–204.

³³ Jan Egeland, Adele Harmer, and Abby Stoddard, “To Stay and Deliver: Good Practice for Humanitarians in Complex Security Environments,” Policy and Studies Series (Office for the Coordination of Humanitarian Affairs (OCHA), 2011), 2, https://docs.unocha.org/sites/dms/Documents/Stay_and_Deliver.pdf.

³⁴ See Humanitarian Policy Group (HPN), “Operational Security Management in Violent Environments (Revised Edition) - Humanitarian Practice Network,” Good Practice Review No. 8 (London: HPN, Overseas Development Institute, December 2010), http://www.odihpn.org/index.php?option=com_k2&view=item&layout=item&id=3159.

³⁵ For an overview of dilemmas around humanitarian security management, see Fast, *Aid in Danger*.

a. Acceptance

Acceptance is commonly referred to as the “foundation” or “cornerstone” of humanitarian security management strategies.³⁶ Acceptance-based approaches seek to soften or remove threats by gaining consent for — and conversely, reducing opposition to — a humanitarian agency’s presence and work. Many once presumed acceptance for the work of humanitarians — and by extension, immunity from attack — as long as they wore a distinct emblem or acted in accordance with the core humanitarian principles. However, acceptance as an effective operational and security strategy is much more complex and demanding today, as evidenced by the extreme difficulties of humanitarian action without consent or access in Syria, for instance.

Acceptance is both a requirement for humanitarian access under international law and a practical and operational necessity for humanitarian workers. At the state level, IHL requires acceptance in the form of state consent to the presence of outside humanitarian assistance on its territory, though states may not refuse consent on an “arbitrary” basis.³⁷ In turn, states have the primary responsibility for ensuring the security of humanitarian personnel.³⁸ However, while state consent establishes the legal basis for humanitarian access under international law, it does not necessarily guarantee the acceptance of humanitarian actors by all actors on the ground, or their security from attack. Building acceptance among diverse local stakeholders and populations is integral to effective programming and security management yet can be a complex and challenging process, depending on factors such as relationships, adherence to the principles, performance, and local perceptions. The key aspects of acceptance are detailed below.

First, acceptance is not a “soft” or “passive” strategy but rather an active and demanding one requiring continuous efforts to manage relationships and perceptions over time. As Fast et al. write, “levels of acceptance are always dynamic, not static,” especially in rapidly changing circumstances or operating environments.³⁹ Aid workers must obtain and maintain the acceptance of local communities and key stakeholders, including not only beneficiaries but also armed actors who might exhibit hostility toward humanitarian actors.⁴⁰ Building

³⁶ See, e.g., Abby Stoddard and Adele Harmer, “Supporting Security for Humanitarian Action: A Review of Critical Issues for the Humanitarian Community” (Humanitarian Outcomes, March 2010), <https://www.humanitarianoutcomes.org/sites/default/files/resources/SupportingSecurityforHumanitarianActionMarch20101.pdf>; Larissa Fast and Michael O’Neill, “A Closer Look at Acceptance,” *Humanitarian Exchange Magazine*, no. 47 (June 2010), <http://www.odihpn.org/humanitarian-exchange-magazine/issue-47/a-closer-look-at-acceptance>.

³⁷ Felix Schwendimann, “The Legal Framework of Humanitarian Access in Armed Conflict,” *International Review of the Red Cross* 93, no. 884 (December 2011): 999, <https://www.icrc.org/eng/resources/documents/article/review-2011/irrc-884-schwendimann.htm>.

³⁸ See e.g. Jean-Marie Henckaerts and Louise Doswald-Beck, eds., *Customary International Humanitarian Law, Vol. I., Rules* (Cambridge University Press & ICRC, 2005), chap. 17; Cedric Ryngaert, “Humanitarian Assistance and the Conundrum of Consent: A Legal Perspective,” *Amsterdam LF 5* (2013), <http://amsterdamlawforum.org/article/viewFile/298/483>.

³⁹ Larissa Fast et al., “The Promise of Acceptance as an NGO Security Management Approach,” *Disasters* 39, no. 2 (April 1, 2015): 219.

⁴⁰ Jan Egeland, Adele Harmer, and Abby Stoddard, *To Stay and Deliver: Good Practice for Humanitarians in Complex Security Environments*, Policy and Studies Series (Office for the Coordination of

acceptance also requires knowledge and awareness of local conditions in order to produce accurate and up-to-date risk and security assessments. Both of these tasks can be difficult in fluid and dynamic conflict settings, where agencies, conflict parties, or operating areas shift with great frequency.⁴¹ In this regard, local or national staff may have an advantage in gaining acceptance compared to internationals through their connections to local communities, existing relationships, or informal networks of communication, yet as discussed in the previous section, they may also be at a disadvantage in cases where their identity or communal association is met with hostility. Similarly, gender, working portfolio, or organizational affiliation can each serve as assets or liabilities in terms of building acceptance, depending on the circumstances.

Second, acceptance depends on humanitarian actors demonstrating results and reliability. As OCHA's 2011 study concludes, "the fundamental prerequisite to acceptance is competence in humanitarian delivery and the capacity to fulfil commitments and demonstrate tangible results for beneficiaries."⁴² In fact, Fast et al. found that "field staff and communities tend to see acceptance as a programming strategy, with less recognition of its possible security implications."⁴³ Yet the security implications of acceptance are manifold: "a community's willingness to share information and to intervene to prevent or mitigate [a security] incident was enhanced by such factors as trust, respectful relationships, programmes that met community needs, transparency and [...] an openness to informal communication."⁴⁴

Third, acceptance depends upon aid workers demonstrating adherence to the fundamental humanitarian principles, despite internal and external challenges to principled humanitarian action. Here, perceptions play a large role. "[T]he ability of an organization to demonstrate and maintain independence," writes Fast, "is evidence that the organization is not tainted by non humanitarian agendas or by serving as a puppet for other political actors."⁴⁵ Yet exactly this has occurred in a number of recent conflicts. Not only are aid workers operating in increasingly dangerous settings, with violent actors motivated to attack them and fragile states unable or unwilling to respond, but they are also operating in extremely political contexts (such as Afghanistan and Syria), where the politicization or instrumentalization of aid has undermined their perceived neutrality, impartiality and independence, with dangerous consequences. In Sri Lanka, for instance, seventeen staff members of Action Contre La Faim (ACF International) were executed in their office in August 2006 — allegedly by government forces who perceived the staff's work with displaced Tamil persons to be indirectly aiding the insurgent Tamil Tigers.⁴⁶ In that case, the presence of humanitarians alone, or their provision of aid to particular groups, led some actors to see them as parties to the conflict and thus legitimate targets of attack. While humanitarian agencies may strive for neutrality, acknowledges Mary Anderson, "the impact of their aid is not neutral regarding whether

Humanitarian Affairs (OCHA), 2011), 19,
https://docs.unocha.org/sites/dms/Documents/Stay_and_Deliver.pdf.

⁴¹ Jan Egeland, Adele Harmer, and Abby Stoddard, "To Stay and Deliver," 3.

⁴² *Ibid.*, 19.

⁴³ Fast et al., "The Promise of Acceptance as an NGO Security Management Approach," 211.

⁴⁴ *Ibid.*, 219.

⁴⁵ Fast, *Aid in Danger*, 107.

⁴⁶ Lyra H. Spang, "The Humanitarian Faction: The Politicization and Targeting of Aid Organizations in War Zones," *International Affairs Review* XVIII, no. 1 (2009), <http://www.iar-gwu.org/node/63>.

conflict worsens or abates.”⁴⁷ In the wars in Iraq and Afghanistan, the United States and its allies sought at times to use humanitarian and development organizations as “force multipliers” or as a means of “winning hearts and minds” amongst the local population.⁴⁸ As a result, insurgents came to see “all aid efforts that support the goals of the government or the foreign occupying forces [as] a genuine threat and legitimate target.”⁴⁹ In Pakistan, C.I.A. involvement in a vaccination campaign — used as a cover in the U.S.’s search for Osama bin Laden — resulted in a severe curtailment of humanitarian access, a continuing series of fatal attacks on health and aid workers throughout the country, and a resurgence of the polio virus.⁵⁰ Even where humanitarian agencies do not themselves participate in such actions, the instrumentalization of aid by political or military forces can easily undermine the perceived neutrality and independence of humanitarian actors and expose them to attack.

Yet practitioners continue to debate the practical meaning and implications of principled humanitarian action for operational security. As Peter Walker and Larry Minear note, “although the International Red Cross and Red Crescent Movement often treats the Fundamental Principles as revealed wisdom, they are, in reality, the distillation of practical operational experience over a very long period of time and not a priori or normative in origin.”⁵¹ Larissa Fast reinforces this sentiment: “[p]rinciples matter, not as magical shields providing protection, but rather as guides for action.”⁵² Indeed, while humanitarian actors strive to adhere to the principles at the field level, they tend to do so in an agile and pragmatic way. As Red Cross affiliates Sorcha O’Callaghan and Leslie Leach note from experience in Lebanon, “while the Principles can serve as a framework for action and decision-making, they must be accompanied by other operational [security] measures,” since “despite employing various operational strategies and applying the Fundamental Principles fully, unpredictable operational factors can affect safety and access drastically [... such as] the decisions and actions of armed actors.”⁵³ While principled humanitarian action cannot prevent all attacks, emphasizes Larissa Fast, “carefully cultivated relationships may provide insulation from attack

⁴⁷ Mary B. Anderson, *Do No Harm: How Aid Can Support Peace—or War* (Lynne Rienner Publishers, 1999), 1.

⁴⁸ See “Humanitarian Concerns in the War in Iraq,” *Médecins Sans Frontières (MSF) International*, accessed December 7, 2014, <http://www.msf.org/article/humanitarian-concerns-war-iraq>; Cynthia Brassard-Boudreau and Don Hubert, “Shrinking Humanitarian Space? Trends and Prospects on Security and Access,” *The Journal of Humanitarian Assistance*, November 24, 2010, <http://sites.tufts.edu/jha/archives/863>.

⁴⁹ “Why Aid Workers Are Targets,” *The Globalist*, accessed December 7, 2014, <http://www.theglobalist.com/why-aid-workers-are-targets/>.

⁵⁰ Tim McGirk, “How the Bin Laden Raid Put Vaccinators Under the Gun in Pakistan,” *National Geographic News*, February 25, 2015, <http://news.nationalgeographic.com/2015/02/150225-polio-pakistan-vaccination-virus-health/>; Lena H. Sun, “CIA: No More Vaccination Campaigns in Spy Operations,” *The Washington Post*, May 19, 2014, http://www.washingtonpost.com/world/national-security/cia-no-more-vaccination-campaigns-in-spy-operations/2014/05/19/406c4f3e-df88-11e3-8dcc-d6b7fedeo81a_story.html.

⁵¹ Peter Walker and Larry Minear, “One for All and All for One: Support and Assistance Models for an Effective IFRC” (Feinstein International Famine Center, Tufts University, Boston, August 2004) p. 32, fn. 25.

⁵² Fast, *Aid in Danger*, 241.

⁵³ “Violence against Health Care (II): The Way Forward,” *International Review of the Red Cross*, no. 889 (2013): 305, <https://www.icrc.org/eng/resources/international-review/review-890-violence-against-health-care-2/review-890-all.pdf>.

and may function as safeguards when certain types of attacks do occur.”⁵⁴ Thus, as OCHA’s study suggests, “generally the more active and diligent the organisation was in its acceptance efforts, and the greater its capacity to communicate and negotiate with all parties, the better access and security it was able to obtain.”⁵⁵

Finally, it must be acknowledged that even if “full” acceptance were attainable — and it rarely is — that is still no guarantee against attack. One must disentangle whether an organization has acceptance and whether that acceptance translates into the prevention or mitigation of attacks.⁵⁶ In some cases, it may not, as aid operations in conflict zones will always entail some inherent risk. It may be extremely difficult, if not impossible, for instance, to gain the acceptance of “spoiler” parties, including extremist, terrorist, or criminal groups who may be motivated to attack humanitarians.⁵⁷ Thus, as OCHA suggests, “in the most dangerous environments (including highly criminalised environments) it is unlikely that any organization can ever rely on acceptance-based security alone.”⁵⁸

b. Protection and Deterrence

When acceptance-based approaches appear insufficient in light of persistent or increasing security threats, humanitarian organizations have experimented with “harder” security approaches based on *protection* and *deterrence*. Protection-based approaches, rather than seeking to mitigate the threat itself, aim to reduce the vulnerability of aid workers to existing threats through the use of protective devices and procedures, such as bulletproof vests, armored vehicles, security walls, gates, and checkpoints to protect property and premises by “hardening” the target. Additional protective measures have included taking steps to reduce the profile or visibility of the target, such as using national — as opposed to international — staff, traveling in unbranded or private vehicles, or reducing movement; such a “low-profile” policy was adopted by many humanitarian NGOs in Iraq, for instance.⁵⁹

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

⁵⁴ Fast, *Aid in Danger*, 244.

⁵⁵ Jan Egeland, Adele Harmer, and Abby Stoddard, “To Stay and Deliver,” 18.

⁵⁶ See Fast et al., “The Promise of Acceptance as an NGO Security Management Approach”; see also Larissa A. Fast et al., “In Acceptance We Trust? Conceptualising Acceptance as a Viable Approach to NGO Security Management,” *Disasters* 37, no. 2 (April 1, 2013): 222–43.

⁵⁷ Fast, *Aid in Danger*, 192.

⁵⁸ Jan Egeland, Adele Harmer, and Abby Stoddard, “To Stay and Deliver,” 19.

⁵⁹ On the consequences of such low-profile approaches, see Alexandre Carle and Hakim Chkam, “Humanitarian Action in the New Security Environment: Policy and Operational Implications in Iraq,” HPG Background Paper (Humanitarian Policy Group, Overseas Development Institute, September 2006), https://www.redr.org.uk/objects_store/humanitarian_action_in_the_new_security_environment_-_policy_and_operational_implications_in_iraq_2006_.pdf.

In many ways, the devastating attack on the UN headquarters in Baghdad, Iraq in 2003 shifted thinking about the security of humanitarian workers and prompted an increased adoption of protection and deterrence-based approaches. While the UN mission was both political and humanitarian, the bombing served to shatter any remaining assumptions in the field that aid workers were immune from attack simply by virtue of their humanitarian nature, adherence to the principles, or distinct emblem. The Independent Panel appointed by the UN Secretary-General to investigate the incident lamented that the UN's view of itself "as a benevolent agency, supported and respected by all parties" resulted in an illusory sense of security and a vulnerability to attack.⁶⁰ The Panel further concluded that the UN's security management system was dysfunctional and in need of drastic reform; it found a lack of accountability for security management, a lack of compliance with security regulations, and a lack of awareness of security conditions and requirements.⁶¹ Thereafter, the newly created UN Department of Safety and Security (UNDSS) imposed tighter security restrictions on UN staff worldwide, including the adoption of many protection and deterrence-based elements of security management.

In the ensuing years, many humanitarian organizations in other insecure areas withdrew behind protective barriers (e.g., fortified compounds or armored vehicles) or employed deterrent measures (e.g., armed guards or military escorts) to ward off further attacks. While these high-profile protective and deterrent measures may have protected some humanitarian workers from attack in the short term, in many cases they not only severely limited humanitarians' ability to deliver aid to populations in need but also jeopardized their perceived neutrality, raising new security concerns. As some international aid compounds came to resemble military bunkers, notes Masood Karokhail of the Liaison Office in Afghanistan, "The perception of humanitarian organizations as 'neutral' [...] greatly diminished, and that had proven costly for Afghan lives;"⁶² since 2001, Afghanistan has been one of the deadliest countries for humanitarian workers.⁶³ In Somalia, writes Ken Menkhaus, security assessments undertaken by UNDSS raised questions about humanitarians' neutrality in the context of Western-led counterterrorism operations and led Somali militants to target humanitarian actors; "Ironically, the very monitoring and analysis functions that were intended to improve security for humanitarian actors now made them vulnerable to charges of spying for the West," thereby exacerbating security risks.⁶⁴

Tensions with the principle of independence are also commonly cited as arising from protective and deterrent security measures. Operational independence requires that humanitarian action remains autonomous from political, economic, or military objectives.⁶⁵ This includes independence from the objectives of governments, local actors, or parties to an

⁶⁰ "Report of the Independent Panel on the Safety and Security of the UN Personnel in Iraq," October 20, 2003, 23–24, <http://www.un.org/News/dh/iraq/safety-security-un-personnel-iraq.pdf>.

⁶¹ "Report of the Independent Panel on the Safety and Security of the UN Personnel in Iraq."

⁶² "Increased Attacks on Aid Workers Due to Lack of Respect for International Humanitarian Law, Deputy Secretary-General Tells Security Council," August 19, 2014, <http://www.un.org/press/en/2014/sc11524.doc.htm>.

⁶³ "Why Aid Workers Are Targets."

⁶⁴ Ken Menkhaus, "Stabilization in Practice: The Somali Case," in *Stabilization Operations, Security and Development: States of Fragility*, ed. Robert Muggah (Routledge, 2013), 129.

⁶⁵ "OCHA on Message: Humanitarian Principles," *Office for the Coordination of Humanitarian Affairs (OCHA)*, April 2010, https://docs.unocha.org/sites/dms/Documents/OOM_HumPrinciple_English.pdf.

armed conflict, as well as donor countries or agencies. Deterrent measures such as the use of armed guards or military escorts, however, can create the reality or impression of affiliation with government or military forces. Thus, “humanitarian agencies generally shun the use of armed escorts or armed protection for their warehouses and other property, so as to avoid affiliation with one side or the other in a conflict.”⁶⁶ Not only do armed guards make neutral humanitarian action impossible, but they can be extremely dangerous, since “an armed escort can become an active belligerent in a conflict overnight.”⁶⁷ While such measures may be necessary in some circumstances, protective or deterrent strategies may thus prove counterproductive by reducing acceptance.

The demonstrated dangers of protective and deterrent measures in places like Iraq and Afghanistan — where humanitarian agencies have struggled to maintain their actual and perceived neutrality and independence from the plethora of political and military actors — have led most agencies to consider these measures only as temporary or last resorts. These negative experiences have led to a re-emergence of acceptance-based security approaches in the field; in Afghanistan, for instance, aid organizations such as the United Nations Children's Fund (UNICEF), World Health Organization, and OCHA have moved to reduce the “bunkerisation” of aid compounds in order to increase community acceptance and avoid backlash.

Furthermore, many of these cases illustrate the role of individual staff attributes such as those discussed above — e.g., nationality, gender, or organizational affiliation — in shaping perceptions of neutrality, impartiality, and independence, and thereby influencing the potential for protective or deterrent measures to succeed or backfire. Further research and analysis is needed to discern these effects and better tailor security management strategies.

III. Conclusion

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

First, significant disparities, in terms of vulnerabilities, remain within the humanitarian community, yet the consequences of these disparities are insufficiently understood. Further data collection and analysis are needed to better understand the determinants of security risk, the disparate impacts on international versus national or local staff, staff of different organizations, and men and women, and the effectiveness of various security training or mitigation strategies. It is difficult to know empirically, for instance, whether a particular security training, mitigation strategy, or operational tactic thwarted a potential attack. In this context, further work is also needed to understand the role that nationality, gender,

⁶⁶ “Mali: Negotiating Humanitarian Access in the North,” *Global Policy Forum (GPF)*, May 1, 2012, <https://www.globalpolicy.org/ngos/role-of-ngos-in-the-international-arena/51687-mali-negotiating-humanitarian-access-in-the-north.html?itemid=id#1576>.

⁶⁷ *Ibid.*

organizational affiliation and other individual staff attributes play in contributing to the effectiveness of acceptance-, protection-, and deterrence-based security approaches. For example, are some security approaches better suited to some types of staff or organizations? How does the implementation of these approaches differ depending on the identities of staff or the local context? This improved understanding is crucial to the tailoring of security management strategies to the differential needs, vulnerabilities, and resiliencies of staff.

Second, more exploration is also needed into the potential of new technologies — such as SMS, social media, crisis mapping, remote sensing, or big data analysis — to improve security assessments, communication, reporting, response, and recovery from security incidents, as well as the identification and prosecution of perpetrators of attacks. Furthermore, as the humanitarian sector expands and diversifies, more information is also needed about the impact on security of new humanitarian actors that are not part of the formal humanitarian system, such as volunteer groups, private companies, or security contractors.

Third, significant efforts are needed to fill the current legal gap in protection for aid workers under international law. By granting most humanitarian aid workers with little more than civilian protection — with the exception of Red Cross/Red Crescent, UN staff or medical personnel — IHL has proven insufficient at protecting aid workers in insecure settings or preventing, deterring or punishing their attacks. As a result, mediation is needed at the State level to fight impunity and to improve respect for IHL, and at the international level to build consensus around the creation of enhanced legal protection for aid workers. This could include the creation of a new protected legal status for humanitarian aid workers under IHL, complemented by new mechanisms or protocols — e.g., through the UN Security Council — for monitoring, investigating, and punishing attacks against aid workers, as well as new tools and avenues for advocacy.

Finally, as humanitarian organizations develop new approaches to operating in the face of security threats and attacks, there is a need for improved dialogue across agencies about the dilemmas of principled humanitarian action in complex and insecure environments. Such cross-agency discussion is needed to address shared operational challenges resulting from security threats and attacks and to contribute to greater understanding and more effective responses to these security challenges. This includes the joint development of enhanced tools and methods for context analysis and understanding networks of influence, which could ultimately support acceptance strategies and local relationships that would protect staff members. Furthermore, such a dialogue can contribute to mobilizing the professional sector around the enhanced development and strengthened implementation of legal protections for aid workers. Given the fundamental challenge posed by security threats and attacks to humanitarian action, improved understanding, operational practice, and legal protection for aid workers is crucial to ensuring the consistent and effective delivery of aid to those who need it most.

About the Author

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