



HUMAN
RIGHTS
WATCH

RIGGING THE SYSTEM

Government Policies Co-Opt Aid and Reconstruction Funding in Syria



Rigging the System

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Funding in Syria**

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Summary

Eight years into the armed conflict in Syria, hundreds of thousands have been killed, millions displaced, and the country's infrastructure completely devastated. As the peaceful uprising turned into a bloody conflict involving regional and international actors, the Syrian population has borne the brunt of it: suffering unprecedented violence and human rights abuses by the Syrian government, anti-government armed groups and the Islamic State from indiscriminate killings and extrajudicial executions, to arbitrary detentions and torture, to starvation tactics and destruction of homes.

Now, with the exception of Idlib, most of Syria appears to be moving into a low intensity or even post-conflict phase. The Syrian government has regained most of the territory. But the scale of destruction and devastation is crippling in most of the country, and in the face of poverty, corruption, and continuing insecurity, the humanitarian and reconstruction needs of Syrians both within and outside of Syria are immense.

Crucial to restoring a good life to the country's citizens is rebuilding Syria's infrastructure, including providing them with access to health, education, and other basic rights and needs. However, an abusive state apparatus, coupled with a lack of access and transparency, translates into a high risk that the Syrian government will use aid to finance human rights abuses, and prevent it from reaching individuals that need it – resulting in a host of potential new violations of basic rights.

This report examines the provision of humanitarian assistance and reconstruction and development funding to Syria during the conflict and identifies pitfalls and shortcomings in the humanitarian response thus far, with a focus on aid delivery originating from government-held areas. It aims at highlighting current and potential human rights risks resulting from engagement in government-held Syria, with a view to providing recommendations for how these processes can become more rights-compliant, particularly as the government retakes more territory.

Based on interviews with humanitarians, donors, experts, and beneficiaries, as well as a review of publicly available data on humanitarian and development assistance and

reconstruction, the report concludes that the Syrian government has developed a policy and legal framework that allows it to co-opt humanitarian assistance and reconstruction funding to fund its atrocities, advance its own interests, punish those perceived as opponents, and benefit those loyal to it.

It shows that the government's regular restrictions on the access of humanitarian organizations to communities in need or receipt of aid, selective approval of humanitarian projects and its requirement to partner with security-vetted local actors, while seemingly benign, ensure that the humanitarian response is siphoned centrally through and for the benefit of the abusive state apparatus, at the cost of preventing aid from reaching the population unimpeded. These policies, particularly restrictions on access, also contribute alongside other key factors, including the ongoing risk of detention, torture, and persecution, to these organizations' inability to play a part in the voluntary repatriation of Syrians.

It also finds that humanitarian organizations and agencies operating in Syria have often acceded to the demands of the government, for fear of losing access or being shut down, compromising their ability to serve populations in a rights-respecting manner.

The Syrian government has rigged the system for provision of humanitarian aid, to ensure that the benefit to the state supersedes the needs of the population. In doing so, it has compromised each humanitarian organization or agency's ability to program and re-oriented priorities towards obtaining greater access and resources, instead of serving beneficiaries impartially. Humanitarian organizations have very little leverage to negotiate up with the Syrian government. As the number of international humanitarian organizations seeking to register and transfer their operations to Damascus increases, the risk of a slippery slope is increasingly significant.

The net balance of continuing to operate in restrictive contexts with the hopes that aid will trickle down to beneficiaries and the rationale that some is better than none, must be weighed against the real obstacles to principled and comprehensive aid delivery in government-held Syria. The Syrian government has erected significant barriers to the provision of aid, making the trickledown even more problematic. Moreover, in some areas, where government rights abuses are systematic or widespread, financing government activities without an attempt to reform the system in which they are operating, risks a

humanitarian response that is effectively financing a machinery of repression. The result is that rights of Syrians are subordinated to the demands of the authorities, leading to increased risk of discrimination in distribution of humanitarian aid based on political opinions and perceived loyalties, a failure to assess and act upon the key human rights violations facing the population, and in some cases, active contribution to and financing of human rights violators and ongoing human rights abuses.

Entities engaged in the monumental task of reconstructing Syria face many of the same human rights risks as those providing humanitarian aid, such as restricted access to project areas and the requirement to partner with individuals or organizations implicated in abuse. But they also must contend with a series of urban planning and investment laws that grant the government vast power to seize and demolish property without adequate transparency, or compensation, disproportionately harming poorer Syrians and those the government perceives as political opponents. Moreover, in extreme cases, reconstruction projects that rehabilitate infrastructure of abusive government agencies can facilitate abuses by empowering them to continue forcibly displacing, torturing, and arbitrarily detaining individuals.

United Nations agencies and government bodies who participate in reconstruction efforts risk complicity in the government's human rights violations. Individuals and other organizations, including humanitarian organizations, may also risk criminal complicity by knowingly providing substantial assistance to the commission of international crimes.

Human Rights Watch supports the provision of reconstruction funding and humanitarian aid to all of Syria, including government-held Syria. However, in the absence of effective transparency, oversight, or guarantees, there is an enhanced obligation on humanitarian actors, businesses, and donors to mitigate the significant risk that aid and reconstruction funding will be redirected to empower abusive actors, exacerbate injustices against civilians, and prolong suffering in Syria.

Policies that Create Human Rights Risks in Humanitarian Aid Provision

1. Putting Rights at Risk through Aid and Access Restrictions

Foremost among the policies adopted by the Syrian government to use aid to put rights at risk is the requirement that humanitarian organizations submit projects to the government for approval.

According to humanitarians, the government often rejects projects on vague and even arbitrary grounds. It also regularly counter-proposes its own projects to humanitarians, while preventing them from undertaking a complete needs' assessment to ascertain the extent of suffering and needs in the area. In the end, to get their projects approved, humanitarians resort to bartering with the government over which projects to undertake and effectively, end up prioritizing programming based on what is allowed by the government rather than on a full and independent assessment of the population's needs.

The Syrian government also severely restricts access for international staff of humanitarian organizations and UN agencies. For every field visit, permission from the Ministry of Foreign Affairs is required. Requests are often denied or left without a response with no reason given, restricting organizations' ability to engage beneficiaries and undermining their ability to assess the needs of the population, which results in the inability to undertake projects that respond to the population's urgent needs and basic rights.

The negotiating process, and restrictions imposed by the government, translate into an increased risk of diverting aid and funding with no consideration of the basic rights and associated humanitarian needs of the beneficiaries. It also means that the government can instrumentalize aid to punish civilian populations it perceives as opponents, and reward those it perceives as loyal or who can serve its interests.

The Syrian government also uses its power to issue visas for international staff as leverage against humanitarian organizations and agencies, often withholding or delaying visas until the organization in question complies with its demands, however unreasonable. The net result is that either humanitarians often have to accede, or their operations become so embattled that they are forced to stop programming that is often crucial to advancing the rights of a population. In one example, a disagreement among two state authorities and an international organization that was providing legal aid to Syrians resulted in the

withdrawal of the visas of the international staff, leading the organization to suspend a legal aid program that provided Syrians with support in civil and property registration, placing hundreds of Syrians at risk of legal exploitation.

2. Requiring Preapproved, Security Vetted, Local Humanitarian Partners

UN agencies and international humanitarian organizations that want to operate in Syria can do so only if they partner with approved local actors to carry out their programs. These local actors can be preapproved and vetted national NGOs, sector-specific ministries, or the Syrian Arab Red Crescent (SARC).

The Ministry of Foreign Affairs, in collaboration with the Ministry of Social Affairs, provides a list of preapproved partners that includes only organizations that have been vetted and approved by Syrian intelligence branches. The Syrian security services regularly engage these local partners and can, according to the humanitarians, have access to their beneficiary lists and programming at any point.

These intelligence branches are responsible for systematic rights abuses, have restricted access to aid, and mistreated those they perceived as political opponents. Therefore, their interference in humanitarian programming, either through local partners or directly, compromises humanitarians' ability to deliver aid and gain unfettered access to populations, severely restricting their ability to provide residents with basic needs, including shelter, water, food, and healthcare. It also means that in sharing beneficiary lists with local partners, they could be effectively handing sensitive and sometimes confidential information to the intelligence services and thus potentially facilitating abuse.

Some of the preapproved partners have direct links to rights abusers and are not adequately vetted by humanitarians and UN agencies. While it is common for humanitarians to work with local partners, the limitations in Syria on which partners are approved creates a high risk of co-option and aid diversion by the government. Several international humanitarians who had worked in other contexts, including in Sudan, the Democratic Republic of Congo, and Yemen, told Human Rights Watch that the situation in Syria was among the worst in terms of restrictions on ability to operate and have a positive impact.

In one example, a UN agency made the decision to partner with a local actor, founded by a member of the abusive National Defense Forces, to implement a protection project. Despite warnings by the technical officer in charge of the risks posed by partnering with an organization that belonged to a known human rights abuser, the UN agency moved forward with the project. Six months later, in a rare monitoring and evaluation trip, the UN agency discovered that the local partner had not implemented the project. The organization had been receiving the money from the UN agency for six months, and instead of carrying out activities had been forging the signatures of purported beneficiaries.

3. Restricting Humanitarians' Ability to Address Human Rights Concerns through Protection Programming

Syrians suffer from systematic rights abuses by the Syrian authorities, including arbitrary detention, torture, restrictions on movement, extrajudicial killings, and unlawful force in response to dissent. Many of these abuses are ongoing, and the state apparatus that has committed them remains firmly in place. Setting aside questions of impunity and accountability, ongoing serious rights abuses such as the ones cited here form the basis for preventing international organizations from promoting or facilitating displaced Syrians' return to Syria, and detract from Syrians' ability to enjoy their basic rights, including nonpolitical rights, such as the right to housing, property, education, family, and return.

Given the scale of past and ongoing human rights abuses in Syria, and the survival of the state apparatus that has committed these violations, all responses to the protection needs of the population, particularly urgent responses, should address the key human rights violations that the Syrian population suffers or is at risk of suffering.

However, Syrian authorities have maintained a complete ban on independent human rights monitors and restrict the ability of humanitarian agencies with protection mandates to operate. They have prevented humanitarian agencies such as the International Committee of the Red Cross (ICRC) consistent access to formal or informal detention facilities. The Office of the UN High Commissioner for Refugees (UNHCR) also has only limited and sporadic access to communities of returnees or internally displaced persons. According to former and current protection officers of numerous agencies, if authorities know that a humanitarian organization intends to carry out activities that address or allow

for human rights monitoring, or bring in a human rights-based approach to their work, the government will be more restrictive, deny access, and even threaten to revoke staff visas.

In light of these limitations, protection agencies have redirected sources to focus on “soft” protection, such as raising awareness regarding sexual violence and developing community centers, rather than monitoring and reporting on detentions, mistreatment, violations of property rights, and restrictions on movement.

These policies translate into a series of gaps: an inability to promote human rights of the population, or to protect them from abuses; inability to effectively consider the human rights implications of humanitarian, development, and reconstruction programming; an inability to mitigate or prevent human rights abuses directly related to their mandates; and an inability to establish independent and trusted protection and security guarantees that would fulfill one of the required factors to facilitate the return of displaced Syrians.

Policies that Create Human Rights Risks in Reconstruction Funding

1. An Arsenal of Urban Planning Laws That Facilitate Unlawful Seizure of Property

According to the World Bank, over a third of Syria’s infrastructure (including two thirds of education and healthcare facilities) has been destroyed in the war. Therefore, rehabilitation of houses, schools, hospitals, and other urban infrastructure will be an essential part of any real post-conflict reconstruction. The Syrian government has passed urban planning laws that are ostensibly designed to streamline and facilitate reconstruction in Syria. However, Human Rights Watch has found that these laws and their implementation disproportionately impact poorer citizens and people perceived to be opposed to the government, restricting their ability to return to their homes and forcing them to be displaced multiple times.

For example, in April 2018, the government passed Law No. 10, which it promoted as an urban planning and reconstruction law, but which in practice allowed the Syrian government to unlawfully appropriate residents’ private property. The law joined an arsenal of other instruments, including Law No. 3 of 2018, which gives a government committee the power to assess and appoint buildings for rubble removal and demolitions, Decree 63 of the Counterterrorism Law of 2012, which allowed the government to freeze the assets and property of perceived opposition members under the overbroad Counterterrorism Law, and Decree 66, the predecessor to Law 10.

These laws allow the government to create redevelopment zones and appropriate private property without due process or compensation. Human Rights Watch has documented cases in which the government seized and demolished property without compensation apparently because residents were perceived to be opponents of the government. The loss of property is particularly difficult for poorer Syrians, many of whom have already been displaced during the conflict and are unable to obtain alternative housing. In the absence of guarantees that they will be able to regain or return to their properties, the displaced population is unlikely to return. There are many prerequisites for Syrians to return to their homes, including an improved general security environment and an absence of fear of individualized persecution. But availability of adequate shelter for returnees is also key because it affects their safety and ability to work, procure food, and protect their families.

Many of the corporations that have expressed interest in reconstruction in Syria are construction, cement, or rubble-removing companies. If these companies are involved in demolitions or rehabilitation of structures in violation of people's property rights, or the removal and rebuilding of residences or commercial properties unlawfully seized by the government, they run the risk of contributing to human rights abuses and contributing to forced displacement.

2. Blocking Returns to Areas Under Reconstruction

While the Syria government has been actively soliciting support for reconstruction projects, and in some cases advocating for displaced residents to return to areas that have come back under government control, the government is arbitrarily restricting access to residents from areas they identify as being opposed to the government, undermining their ability to benefit from reconstruction and stripping them of their property rights.

3. Risk of Partnering with Rights Abusers

Firms, investors, or agencies undertaking reconstruction projects in Syria risk partnering with a sanctioned entity or an entity known to have committed human rights violations.

Since before the conflict, high-ranking Syrian government officials have maintained financial and ownership stakes in the telecommunications, construction, oil and energy, and other business sectors in Syria. In many cases, these individuals have a de facto monopoly over the sector.

These high-ranking officials are also known to fund and support abusive entities, including the National Defense Militias, and to invest in projects that facilitate the abuse of civilians' property rights and right to adequate housing. This generates a significant risk for investors who seek to be involved in these sectors that they may be inadvertently working with or funding an abusive individual or entity.

4. Reconstructing Government Infrastructure That May Facilitate New or Ongoing Abuse

Reconstruction projects related to the building and running of prison systems, judicial courthouses, and other law enforcement public service entities, also raise concerns. Such projects would involve operating in sectors where human rights violations are ongoing. Human Rights Watch and others have extensively documented abusive practices by the Syrian intelligence branches, including mistreatment, torture, arbitrary detentions, and extrajudicial execution. The Syrian judicial system, including the Counterterrorism Court, is known for summary decisions, corruption, and lack of respect for due process. The Syrian government has not held these entities accountable for abuse over many years, or reformed them, or taken any other actions to bring an end their abusive practices.

The legal and political landscape described above presents a high risk that the Syria government will use aid and reconstruction funding in violation of international standards, and to further injustices against individuals, by blocking the realization of their basic rights, including the right to shelter, food, health, and education. In restricting humanitarians' ability to provide aid to the population, unimpeded, it is also violating international humanitarian law. Both the government and humanitarian organizations are under an obligation to ensure that they do not discriminate against individuals based on political, religious, ethnic, or other invidious grounds. The policies that the Syrian government has adopted, and the concurrent impact they have on humanitarian agencies' ability to operate, violate the tenet of nondiscrimination as enshrined in international law, and threaten the fulfilment of Syrians' basic rights.

Businesses have a separate responsibility to respect human rights and international humanitarian law throughout their business relationships. In conflict situations such as Syria, they have a heightened responsibility to carefully assess the risks of their activities and operate transparently. Businesses may not contribute to abuses through their own operations, nor may they benefit from or contribute to abuses carried out by state

authorities or others, such as by providing financial or logistical support, or supplying goods, services, technology, or other resources, that further human rights violations. Moreover, they are expected to use their leverage to help mitigate any human rights risks or impacts related to their activities and avoid entering into business relationships with people or entities found to be complicit in serious abuses.

Recommendations for Addressing Human Rights Risks

The Syrian government's record of past and ongoing human rights abuses, largely directed at the Syrian population, poses severe risks for humanitarian organizations, UN agencies, donors, and corporations (hereinafter "actors in Syria"), whatever their motivations. Human Rights Watch recognizes that many of these entities deliver valuable and at times life-saving assistance to Syrians and that their ability to mitigate some of the risks identified in this report may be limited.

Nonetheless, there are several concrete measures they can take to act responsibly within this difficult context.

Conduct Due Diligence. Actors in Syria should conduct full due diligence and understand all potential human rights risks and abuses that may arise out of or be supported by their programming. In particular, they should:

- Ensure programming is based on the most urgent needs of all individuals without discrimination or political considerations.
- Ensure that their partners, or secondary partners, are not subject to human rights sanctions, nor is there evidence that they have committed serious human rights abuses.
- Where relevant, ensure sites of operations are not on land appropriated in violation of the rights of the owners.
- Consult frequently with beneficiary communities and independent experts.

Operate Transparently. To counteract the Syrian government's "divide and conquer" approach and enable humanitarians, investors and donors to more effectively obtain independent evidence on rights concerns and impact, Human Rights Watch recommends that donor countries operationalize a clearinghouse mechanism.

This mechanism should implement standardized criteria for compliance with human rights and humanitarian principles and conduct due diligence of the operations of aid providers to prevent a backsliding in standards. The clearinghouse mechanism should meet regularly and assess reconstruction projects.

The clearinghouse, or screening, mechanism should be comprised of a committee of major donor states and supported and advised by a technical secretariat that is chaired by a major donor country but also made up of representatives from international humanitarian organizations, UN agencies, and UN headquarters, who provide input but do not have decision-making powers. It should regularly consult human rights organizations.

Maximize Leverage. Donors should use their leverage to press the Syrian government to remove restrictions on aid and access and address serious flaws in the legal and other frameworks for reconstruction and urban planning. To maximize leverage and ensure consistency across projects, Human Rights Watch recommends that donors and donor states create a funding consortium for humanitarian, reconstruction, recovery, and resilience programming in Syria available only to humanitarian organizations that adopt the criteria established by the clearinghouse mechanism for programming, including insistence on independent and full needs assessments; maintaining confidentiality of beneficiary lists; and insisting on full, unimpeded and regular access to all areas. This would confront the Syrian government's attempts to compromise humanitarian operations by requiring humanitarian organizations to lower their standards, or barter on project implementation, to gain greater access.

Human Rights Watch also recommends that all humanitarian programming is accompanied by an independent protection and monitoring mechanism where organizations can monitor and report on human rights violations that beneficiaries face, or in the alternative, to expand humanitarian programming and empower actors to be able to do so.

Observe Red Lines. In circumstances like these, the human rights harm may outweigh the benefits of humanitarian programming, particularly given the Syrian government's track record of blocking aid to those with the most urgent needs, and the serious, and in some cases realized, risk of financing a repressive state apparatus that is harming the very people they are trying to serve.

As such, all actors in Syria should avoid contributing to serious human rights abuses including by ending their operations where the risks are unavoidable, and the likely human rights harm outweighs the benefits of their programming. In particular, they should avoid projects that contribute to displacement or are related to the building and running of prison systems, judicial courthouses, and other law enforcement public service entities.

Methodology

The report is based on an analysis of the laws, practices, and policies in place in Syria, drawn from publicly available material and 33 interviews with current and former humanitarian workers in international humanitarian organizations and United Nations agencies; staff of local Syrian humanitarian organizations, independent experts on the Syrian economy and humanitarian response, twelve members of affected communities, three former Syrian government officials, and two business professionals working in Syria.

It uses past examples of negative practices in humanitarian aid distribution to illustrate the human rights risks and issues that are likely to arise from the provision of humanitarian aid and implementation of reconstruction projects in Syria. It is intended as a blueprint for organizations, donors, and companies considering contributing to reconstruction and for policy-makers in the international aid sphere.

The report is also based on an analysis of publicly available data and reporting on the international humanitarian response to the crisis in Syria, as well as public tenders and announcements for humanitarian and early recovery projects, open source information regarding unilateral sanctions against Syrian and foreign officials, businessmen, ministries, and corporations involved in human rights abuses and/or who have close ties to the Syrian “regime” as reflected in the sanctions language employed by the United States and the European Union.¹

Human Rights Watch has sent letters to the United Nations Development Programme (UNDP), United Nations High Commissioner of Refugees (UNHCR), the United Nations Human Settlements Programme (UN-Habitat); the International Committee of the Red Cross (ICRC), and the Syrian Arab Red Crescent (SARC) requesting information for the report, and received responses from SARC, UNDP, and the UNHCR in writing, and from UN-Habitat orally. Those responses are reflected in the Appendix.

¹ US Department of State, “Syria Sanctions,” undated, <https://www.state.gov/e/eb/tfs/spi/syria/> (accessed May 7, 2019); European Council, “Syria: EU renews sanctions against the regime by one year,” news release, May 17, 2019, <https://www.consilium.europa.eu/en/press/press-releases/2019/05/17/syria-eu-renews-sanctions-against-the-regime-by-one-year/> (accessed May 22, 2019)

All interviews were conducted in Arabic or English. Human Rights Watch explained the purpose of the interviews to interviewees and obtained their consent to use the information they provided in this report.

In all cases where interviewees asked to not be named or Human Rights Watch assessed that naming them would jeopardize their security or their ability to operate in Syria, Human Rights Watch has not named them or provided identifying information.

Background

The Syrian conflict started in 2011 as a peaceful political uprising. However, within months the uprising turned into an armed conflict that continues in 2019 and has been characterized by a range of human rights and humanitarian law abuses. These have included mass arbitrary arrests, torture, extrajudicial executions, indiscriminate attacks, the use of prohibited weapons, and the targeting of civilians and civilian infrastructure.² Between 2011-2019 the violence has resulted in close to half a million dead.³ Some parties to the conflict blocked civilians' ability to flee violence and in some cases forcibly displaced them from their homes, creating one of the largest displacement crises in modern history.⁴

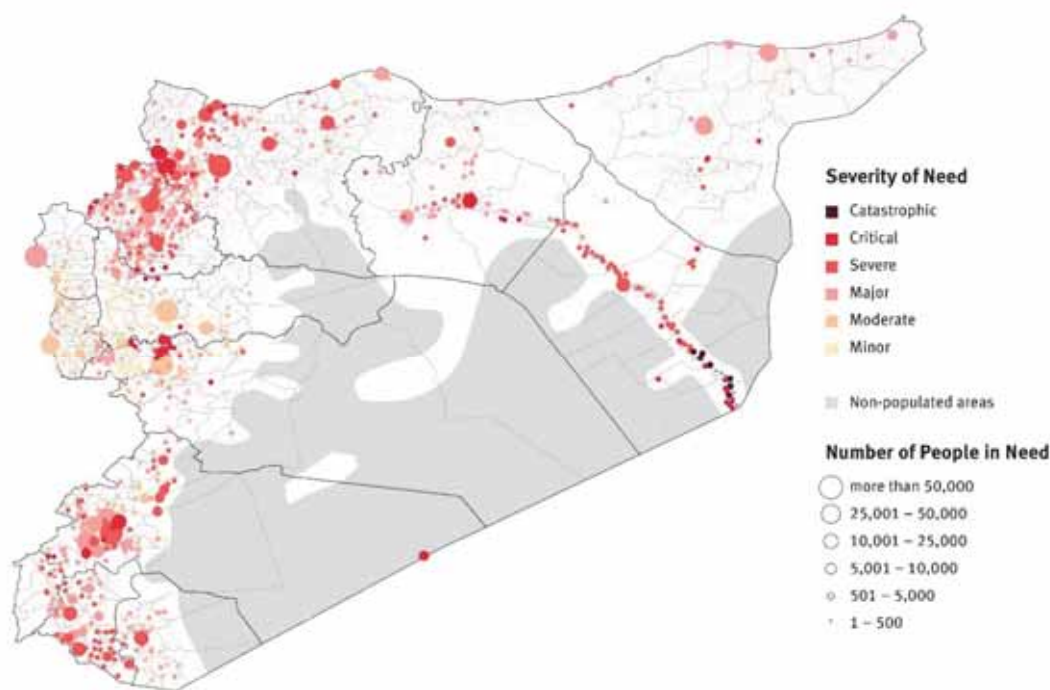
In addition to the devastating toll on civilians, the conflict devastated the country's infrastructure. A July 2017 World Bank study of eight governorates found that since 2011, the war had partially damaged 20 percent and destroyed 7 percent of the country's housing, as well as about two-thirds of its medical and educational facilities.⁵ In November 2017, then-United Nations Special Envoy for Syria Staffan de Mistura announced his lower

² See Human Rights Watch research on Syria, e.g.: Human Rights Watch, *Death from the Skies: Deliberate and Indiscriminate Air Strikes on Civilians* (New York: Human Rights Watch, 2013), <https://www.hrw.org/report/2013/04/10/death-skies/deliberate-and-indiscriminate-air-strikes-civilians>; Human Rights Watch, *If the Dead Could Speak: Mass Deaths and Torture in Syria's Detention Facilities*, (New York: Human Rights Watch, 2015), <https://www.hrw.org/report/2015/12/16/if-dead-could-speak/mass-deaths-and-torture-syrias-detention-facilities>; "Syria: A Year On, Chemical Weapons Attacks Persist," Human Rights Watch news release, April 4, 2018, <https://www.hrw.org/news/2018/04/04/syria-year-chemical-weapons-attacks-persist>; "Syria : Extrajudicial Executions," Human Rights Watch news release, April 9, 2012, <https://www.hrw.org/news/2012/04/09/syria-extrajudicial-executions>.

³ Estimates by different groups range from 370,000 to 511,000. There are no official figures.

⁴ See e.g., "Syria: End Indiscriminate Shootings of Civilians Fleeing Country," Human Rights Watch news release, June 27, 2012, <https://www.hrw.org/news/2012/06/27/syria-end-indiscriminate-shootings-civilians-fleeing-country>; "Syria: Afrin Residents Blocked from Fleeing, Aid," Human Rights Watch news release, April 8, 2018, <https://www.hrw.org/news/2018/04/08/syria-afrin-residents-blocked-fleeing-aid>; "Syria/Turkey: Border Guards Shoot, Block Fleeing Syrians," Human Rights Watch news release, February 3, 2018, <https://www.hrw.org/news/2018/02/03/turkey/syria-border-guards-shoot-block-fleeing-syrians>. See the Office of the United Nations High Commissioner for Refugees (UNHCR), "Global Trends in Forced Displacement 2017," <https://www.unhcr.org/statistics/unhcrstats/5b27be547/unhcr-global-trends-2017.html>, (accessed March 25, 2019).

⁵ The World Bank, "The Toll of War: The Economic and Social Consequences of the War in Syria," July 10, 2017, <https://www.worldbank.org/en/country/syria/publication/the-toll-of-war-the-economic-and-social-consequences-of-the-conflict-in-syria> (accessed March 25, 2019).



Map showing an assessment by the United Nations Office for the Coordination of Humanitarian Affairs of the number of people in need in Syria, and severity of needs, based on data compiled for the 2018 Humanitarian Needs Overview.

estimate for Syria reconstruction to be US\$250 billion, while the Syrian and Russian governments claimed it was closer to half a trillion dollars.⁶

Much of the destroyed infrastructure is civilian and under international law should not have been targeted by parties to the conflict unless used for military purposes. However, as Human Rights Watch and others have documented, the Syrian government, supported by its allies, Russia, Iran, and Hezbollah, conducted hundreds of indiscriminate and targeted attacks on civilian infrastructure, including schools and hospitals often without any military objectives in the vicinity of the strike sites or with disproportionate impact on

⁶ Richard Salame, “The Syrian War is Still raging but the Battle over Reconstruction has Already Begun,” *The Nation*, September 5, 2018, (accessed March 25, 2019), <https://www.thenation.com/article/the-syrian-war-is-still-raging-but-the-battle-over-reconstruction-has-already-begun/>; “Assad says Syria reconstruction to cost \$400bn,” Press TV, December 14, 2018, (accessed May 22, 2019), <https://www.presstv.com/Detail/2018/12/14/582868/Syria-reconstruction-cost-Assad-Russia-Borisov>.

civilians.⁷ Human Rights Watch and others have also documented some indiscriminate strikes by the US-led coalition.⁸ In its attacks against the Islamic State group (also known as ISIS), the US-led coalition destroyed nearly 70 percent of Raqqa city and based on preliminary analysis of satellite imagery by Human Rights Watch, Deir el-Zor governorate is likely to have experienced similar levels of damage from strikes by the US-led coalition.⁹

The landscape of the conflict changed drastically in 2018, with the Syrian government retaking much of the territory that had been held by anti-government armed groups. By early 2019 the government was in control of the majority of territory in the country. The Kurdish-led Syrian Democratic Forces maintained control of parts of northeast Syria. Hay'et Tahrir al-Sham, a coalition of anti-government armed groups, led by the group previously known as Jabhat al-Nusra, had consolidated control of Idlib, parts of Hama and Aleppo governorates, and Turkey-backed armed groups in control of the northern-most parts of Aleppo governorate, including Afrin, Azaz, and Jarablus.¹⁰

Over the course of 2018 active hostilities decreased and economic relations between the Syrian government and countries in the region began to normalize, for example with the

⁷ See e.g., "Syria: Indiscriminate Attacks Ongoing Despite 'Cessation of Hostilities,'" Human Rights Watch news release, April 12, 2016, <https://www.hrw.org/news/2016/04/12/syria-indiscriminate-attacks-ongoing-despite-cessation-hostilities>; see also Human Rights Watch, *Death from the Skies*.

⁸ See e.g., Nadim Houry (Human Rights Watch), "Acknowledging the Harm Done to Civilians by the US-led Coalition in Syria," commentary, *Just Security*, October 6, 2017, <https://www.hrw.org/news/2017/10/06/acknowledging-harm-done-civilians-us-led-coalition-syria>; Human Rights Watch, *All Feasible Precautions?: Civilian Casualties in Anti-ISIS Coalition Airstrikes in Syria* (New York: Human Rights Watch, 2017),

<https://www.hrw.org/report/2017/09/24/all-feasible-precautions/civilian-casualties-anti-isis-coalition-airstrikes-syria>; "Syria: Thousands of Digital Activists to Track How US-led Air Strikes Destroyed Raqqa," Amnesty International press release, November 20, 2018, <https://www.amnestyusa.org/press-releases/syria-thousands-of-digital-activists-to-track-how-us-led-air-strikes-destroyed-raqqa/> (accessed May 22, 2019); Civilian Casualties in Syria Database, Airwars, accessed March 25, 2019, <https://airwars.org/civilian-casualties/?belligerent=coalition&country=syria>.

⁹ UN Office for the Coordination of Humanitarian Affairs (OCHA), "Syria Crisis: Northeast Syria Situation Report No 23 (March 15 – April 15)," April 15, 2018, https://reliefweb.int/sites/reliefweb.int/files/resources/north_east_syria_sit_rep_15_march_to_15_april_2018_final.pdf (accessed May 22, 2019); On Deir el-Zor: "Syria: Concerns for Civilians Escaping ISIS Holdout," Human Rights Watch news release, February 22, 2019, <https://www.hrw.org/news/2019/02/22/syria-concerns-civilians-escaping-isis-holdout>; and for overall damage assessment: Reach Resource Center et. al., "Syrian Cities Damage Atlas," March 16, 2019, http://www.reachresourcecentre.info/system/files/resource-documents/reach_thematic_assessment_syrian_cities_damage_atlas_march_2019_reduced_file_size_3.pdf (accessed May 21, 2019).

¹⁰ The Carter Center, "Syria Conflict Map," <https://www.cartercenter.org/syria-conflict-map/> (accessed March 25, 2019).

opening of the Nassib border crossing between Jordan and Syria and the reopening of trade between the United Arab Emirates and Syria.¹¹

Simultaneously, Russia began lobbying Western states, and others, to support the return of refugees by providing funding for reconstruction.¹² While no large-scale reconstruction financing was committed in 2018, countries, including Lebanon, Jordan, China, Russia, Iran, and the Gulf Cooperation Council (GCC) countries did indicate interest to invest in reconstruction, including by reopening trade paths, sending business delegations to Damascus, and attending investment conferences aimed at securing reconstruction commitments.¹³

As of December 2018, Human Rights Watch had identified at least 60 firms that had expressed an interest in participating in reconstruction in Syria, particularly in the construction, oil and energy, telecommunications, and water sanitation sectors. Of these, 43 are Iranian, Lebanese, and Russian public and private companies. German, French, and Belgian private companies have also expressed an interest.¹⁴

Reconstruction refers to the medium- and long-term rebuilding and sustainable restoration of resilient critical infrastructures, services, housing, facilities, and livelihoods required for the full functioning of a community or a society.¹⁵ Civilian infrastructure and services may include schools, hospitals, major physical infrastructure, water, and sanitation systems.

¹¹ “Jordan and Syria re-open Nassib border crossing,” Reuters, October 15, 2018, <https://www.reuters.com/article/us-mideast-crisis-syria-jordan/jordan-and-syria-reopen-nassib-border-crossing-idUSKCN1MPoL4> (accessed May 22, 2019); “DP World establishes trade corridor between Jebel Ali and Syria,” *Arabian Industry*, January 3, 2019, <https://www.arabianindustry.com/supply-chain/news/2019/jan/3/dp-world-establishes-trade-corridor-between-jebel-ali-and-syria-6019481/> (accessed May 22, 2019).

¹² “Putin urges Europe to help rebuild Syria so refugees can return,” *Guardian*, August 18, 2018, <https://www.theguardian.com/global/2018/aug/18/putin-urges-europe-to-help-rebuild-syria-so-refugees-can-return> (accessed May 22, 2019).

¹³ Database of corporations and businesses that expressed interest in investing in Syria on file with Human Rights Watch. Database was compiled based on publicly available material from local and international sources on corporations that have expressly indicated interest, participated in investment conferences on Syria, or sent businessmen and investment delegations.

¹⁴ Database of corporations that expressed interest in reconstructing Syria on file with Human Rights Watch. The database is not comprehensive, and is based on names of corporations that have attended or registered to attend the Damascus International Fair, as well as reports by Syrian news outlets regarding deals, delegations, and visits by investors and corporations.

¹⁵ UN General Assembly, “Report of the open-ended intergovernmental expert working group on indicators and terminology relating to disaster risk reduction,” A/71/644, December 1, 2016, <https://www.unisdr.org/we/inform/terminology#letter-r> (accessed April 4, 2019).

When Human Rights Watch refers to reconstruction in this report, we are referring to any project that aims to rebuild or rehabilitate parts of Syria that have been destroyed. This includes construction of residential homes, rehabilitation of key infrastructure including electricity grids, water pumps and sanitation systems, schools, hospitals, prisons, and local administration buildings including courts, police stations, and land cadastral buildings. It also includes the removal of rubble.

Such a project may be clearly labeled as reconstruction or undertaken under a humanitarian or development umbrella, labeled or characterized as an early recovery, rehabilitation, or stabilization project. In many ways, the humanitarian response in Syria since the start of the conflict has been one of the largest in history, and in fact, has constituted one of the main sources of revenue for the Syrian economy.¹⁶ According to the Financial Tracking Services, \$2.2 billion was spent on the 2018 Syria Humanitarian Response Plan (HRP), with the US, UK, Norway, Germany, and the European Union responsible for the bulk of the funding.¹⁷ The requested amount for the 2019 HRP is \$3.3 billion. In the absence of large-scale reconstruction projects, some reconstruction and rehabilitation projects are happening through humanitarian and development programming, and with the involvement of international humanitarian organizations and development agencies. For example, both OXFAM and the UN Development Programme (UNDP) have undertaken the rebuilding of water sanitation networks and infrastructure, while Premier Urgence, the UN Children's Fund (UNICEF), and MEDAIR have undertaken the rebuilding of healthcare infrastructure in government-held Syria.¹⁸ Meanwhile, some Western countries like France, Germany, the United Kingdom, and the United States are funding more and more humanitarian and development projects in government-held Syria,

¹⁶ Development Initiatives, "Global Humanitarian Assistance Report 2018," <http://devinit.org/wp-content/uploads/2018/06/GHA-Report-2018.pdf> (accessed May 22, 2019).

¹⁷ UN OCHA, Financial Tracking Service, https://fts.unocha.org/countries/218/flows/2018?f%5Bo%5D=flowStatus%3A%22paid%22&order=simple_property_1&sort=desc (accessed March 25, 2019). The bulk of the financing goes to **World Food Programme** (WFP), but at least US\$90 million go to early recovery and water, sanitation and hygiene (WASH). Filtered with organizations that only operate in government-held territories.

¹⁸ Tender notices available on Facebook: Oxfam in Syria's Facebook page, <https://www.facebook.com/1440715602810597/photos/a.1480129788869178/2258288924386590/?type=3&theater> (accessed May 22, 2019); UN Development Programme, Syria: Basic Infrastructure and Service Rehabilitation, <http://www.sy.undp.org/content/syria/en/home/ourwork/crisispreventionandrecovery/overview.html> (accessed May 22, 2019); UN OCHA, Financial Tracking Service, https://fts.unocha.org/countries/218/flows/2018?f%5Bo%5D=flowStatus%3A%22paid%22&order=simple_property_1&sort=desc (accessed May 22, 2019).

and Switzerland has opened humanitarian programming offices in government-held territory.¹⁹ Other European countries are considering the same.²⁰

While some humanitarian, development, stabilization, and privately or publicly funded reconstruction projects may have different aims and scales and have different domestic laws apply to them, from a human rights perspective, engagement in any project aimed at rebuilding and sustainable restoration of infrastructure, services, housing, facilities, and livelihoods can carry similar risks of entanglement in serious human rights abuses.

¹⁹ United Kingdom Department of Foreign and International Development, “Development Tracker,” <https://devtracker.dfid.gov.uk/countries/SY/projects> (accessed March 25, 2019); United States AID, “Ongoing USG Humanitarian Assistance: Syria - Complex Emergency,” March 15, 2019, https://www.usaid.gov/sites/default/files/documents/1866/03.15.19_-_USG_Syria_Complex_Emergency_Program_Map.pdf (accessed March 25, 2019); “Swiss establish humanitarian aid office in Damascus,” Swiss government press release, December 21, 2017 https://www.swissinfo.ch/eng/syrian-presence_swiss-establish-humanitarian-aid-office-in-damascus/43772088 (accessed March 25, 2019).

²⁰ Human Rights Watch interview with high level European official, Beirut, August 1, 2018.

Policies that Create Human Rights Risks in Humanitarian Aid Provision

When a humanitarian or development organization decides to work in government-held Syria, it must contend with a series of regulations that place its ability to provide humanitarian aid or development assistance in a human rights-compliant manner at risk rather than advance its work.

Ostensibly designed to allow the state to regulate one of the largest humanitarian responses in modern history, this framework instead empowers the government to divert aid, development, and reconstruction assistance in a way that creates significant (and in many cases realized) risk of discriminating against residents who are not aligned with the government's political agenda, and fails to allow for a distribution of aid in a manner that respects the rights of the population.²¹ It restricts humanitarian organizations and United Nations agencies' ability to fulfil their mandate in line with international human rights and humanitarian law, by making their access contingent on satisfying the demands of corrupt and often abusive authorities, in ways that abuse rights.

The policies require approval for access to different areas of government-held parts of Syria. They require that all international organizations and entities partner with preapproved local organizations or ministries, and that proposed projects get approval from the government before implementation. There is no transparency around the criteria for approval in any of the above, giving the government greater leeway to use these policies to advance their interests and restrict the delivery of aid to certain segments of the population, in order to punish them or to ensure that those loyal to it are rewarded, resulting in a failure to realize their rights to shelter, food, and education not as a result of limited resources and capacity, but rather active discrimination.

The state gives permission to local humanitarian groups to operate based on their loyalty to the government, not on the basis of their suitability for a project; its abusive intelligence

²¹ On relative scale of the Syria Humanitarian Response Plan (HRP) as compared to other countries. See e.g., UN OCHA, Financial Tracking Service, Appeals: Overview, <https://fts.unocha.org/appeals/overview/2019> (accessed May 22, 2019).

branches require local groups to coordinate with them; and authorities approve projects to serve and reward its supporters and withhold or restrict support to those seen as opponents of the government.

Putting Rights at Risk through Aid and Access Restrictions

The government's refusal to provide permission to aid convoys into besieged and hard-to-reach areas, and its impact on the civilian population in those areas, has been well documented.²² These bureaucratic controls remain in place even after the government retakes an area, limiting the scope and location where projects can be implemented. The practice of the Syrian government has been to impede aid deliveries, and make it difficult for humanitarian organizations to assess needs in a manner that complies with the international humanitarian principle of impartiality (see section Human Rights and Humanitarian Principles Relating to Humanitarian Aid Provision). By negotiating with humanitarians on what and where projects can be implemented to advance political objectives of authorities, and denying access requests, the government is undermining the objectives of humanitarian programming in Syria, and placing the ability of organizations to provide the population with healthcare, shelter, and other basic rights at risk.

Using project approvals to punish political opinion

All of the representatives of international humanitarian organizations Human Rights Watch spoke to, including those who were involved in structural rehabilitation of hospitals and water sanitation networks, told Human Rights Watch that they were required to submit projects to the government for approval.²³ The government, or local Syrian partners (see section Potential Rights Abusers as Humanitarian Partners), propose a series of areas for the organization to operate in, and then the humanitarian agency proposes projects based on data available to them. Once these projects were submitted, the government either approves or rejects them or provides no feedback regarding the project.²⁴ The government also counterproposes its own projects, and a negotiations process between the government and the humanitarian organization begins, which often results in

²² See e.g., "Syria: Promised Aid to Key Areas Blocked," Human Rights Watch news release, April 4, 2016, <https://www.hrw.org/news/2016/04/04/syria-promised-aid-key-areas-blocked>.

²³ Human Rights Watch interviews with 19 representatives of humanitarian organizations including international and local humanitarian organizations and United Nations agencies, July 2018 to March 2019.

²⁴ Ibid.

humanitarians failing to implement their initial projects.²⁵ One humanitarian explained it as follows:

In Syria, you barter with the government for projects, everyone knows this. As a humanitarian, I say I will rehabilitate schools in this area. The government comes back and says how about these areas instead? Back and forth, until I commit to their areas to get approval for my projects.²⁶

Interviewees told Human Rights Watch that these restrictions translated into diverting aid and funding from areas previously held by anti-government groups to areas where beneficiaries were considered loyal to the government without prioritizing consideration for the humanitarian needs of the beneficiaries.²⁷

For example, rehabilitation, aid provision, and support by humanitarians to towns in Eastern Ghouta, which was retaken by the Syrian government in early 2018, have been treated differently. As of October 2018, Harasta, a town in Eastern Ghouta had a population of 629 persons in need of assistance, 384 of whom were internally displaced, according to the UN Humanitarian Needs Overview (HNO) 2019 data. Douma, a second town in Eastern Ghouta, had a population of 94,000 in need of assistance, of whom at least 8,500 are internally displaced.²⁸ The HNO overview indicates that the severity of needs in Douma is far greater than in Harasta.²⁹ Despite this, according to a humanitarian aid monitor, Douma received only a fraction of the rehabilitation support that Harasta was receiving.³⁰ Experts told Human Rights Watch that this was in large part because Harasta's population largely returned from pro-government areas, while in Douma, most are residents had lived under Jaish al-Islam, an anti-government group, and refused to leave

²⁵ Ibid.

²⁶ Human Rights Watch interview with a humanitarian worker in a UN agency, Beirut, January 11, 2019

²⁷ Human Rights Watch interviews with humanitarians and experts observing humanitarian aid flows to Aleppo city; Latakia; Ghouta.

²⁸ UN Office for the Coordination of Humanitarian Affairs (OCHA), "2019 Humanitarian Needs Overview: Syrian Arab Republic," March 1, 2019, <https://hno-syria.org/#severity-of-needs> (accessed March 20, 2019).

²⁹ Ibid.

³⁰ Center for Operational Analysis and Research (COAR), "Political Demographics: The Markings of the Government of Syria Reconciliation Measures in Eastern Ghouta COAR," December 2018, <https://coar-global.org/2018/12/30/2018dec13-political-demographics-the-markings-of-the-government-of-syria-reconciliation-measures-in-eastern-ghouta-coar/> (accessed May 22, 2019).

when the evacuations happened.³¹ Individuals who visited Douma confirmed that there were no clear indications of humanitarian programming in Douma, with the exception of two International Committee of the Red Cross (ICRC)-branded water tanks.³² Data provided by donor and humanitarian tracking services are not detailed enough with regards to the location for Human Rights Watch to be able to ascertain whether the level of programming corresponds to the severity of needs. However the failure to provide aid to areas where the population clearly has urgent needs with regards to water, food, and shelter, due to arbitrary restrictions on delivery – rather than resource and capacity restrictions – contributes to the violation of their rights.

Local media outlets have also provided examples of aid being diverted to areas considered loyal to the government despite apparent greater urgent need to address healthcare, shelter, and educational rights in adjacent areas formerly under the control of anti-government groups, as a result of the rampant destruction and displacement of the population. On November 4, 2018, *al-Modon* reported that the Syrian Minister of Health claimed that the health center in al-Hamdaniyeh, Western Aleppo had been renovated and reopened but that residents told *al-Modon* the center was never damaged.³³ At the same time, the two main hospitals in Eastern Aleppo which were destroyed during fighting there have not been renovated or rehabilitated.³⁴

Two other interviewees told Human Rights Watch that they each experienced at least one incident between May and September 2018 where a project for an area held by anti-government armed groups was rejected, or access was denied to neighborhoods that were previously held by anti-government forces without a reason.³⁵ The result was that the organizations could not implement a project providing water and sanitation rehabilitation nor rebuild a school in the designated areas.

³¹ COAR report; Human Rights Watch interview with author of report (name withheld), Beirut, January 24, 2019; Human Rights Watch interview with humanitarian consultant (name withheld), Beirut, January 21, 2019.

³² Human Rights Watch interview with two journalists who visited the town (names withheld), Beirut, June 2018 and January 2019.

³³ “What Did Khamis and his ministers do in Aleppo?” *al-Modon*, November 6, 2018, http://syrianobserver.com/EN/News/35018/What_Did_Khamis_his_Ministers_in_Aleppo (accessed March 25, 2019); Human Rights Watch interview with journalist from *al-Modon*, remote, January 7, 2019.

³⁴ What Did Khamis and his ministers do in Aleppo?” *al-Modon*.

³⁵ Human Rights Watch interview with three former Syrian Arab Red Crescent (SARC) employees, remotely, August 2018 (three interviews), September 2018 (one interview), and October 2018 (one interview).

Denying Access

The Syrian government severely restricts access for international staff of humanitarian organizations and UN agencies operating in the country.³⁶ Interviewees told Human Rights Watch that for every field visit to an area where they had an ongoing operation, whether to government-held area or an area previously held by anti-government forces, permission from the Ministry of Foreign Affairs is required.³⁷ For UN agencies, this included local staff. Four of the humanitarians interviewed by Human Rights Watch said that over half of these requests are denied or left without a response and that the government does not provide any reason for the denial.³⁸ Where the organization has local Syrian staff, there are fewer restrictions on freedom of movement, although they continue to require permission to visit areas in their official capacity.³⁹ Even where staff members can visit the field relatively regularly, they said the government does not provide them with full access to areas even where no clear security risk exists.⁴⁰

In one incident, a humanitarian worker told Human Rights Watch that his agency attempted to enter Darayya, a town to which access has been restricted several times since it was retaken in August 2016, but that the government had refused its requests every time, preventing it from conducting an assessment to do programming to support returns.⁴¹ Several humanitarians told Human Rights Watch that part of the reason why they discourage returns to Syria is because of their inability to access returnee communities freely:⁴² “We have no way of knowing what happens in these communities, and the question that we need to ask ourselves is, do we want to spend our limited negotiating capacity to require access to all returnee communities, or should we save it for something else?”⁴³

³⁶ Human Rights Watch interviews with 19 representatives of humanitarian organizations including international and local humanitarian organizations and UN agencies, July 2018 to March 2019.

³⁷ Ibid.

³⁸ Human Rights Watch interview with four humanitarian workers in international NGOs and UN agencies, between August 2018 and March 2019.

³⁹ Ibid.

⁴⁰ Ibid.

⁴¹ Human Rights Watch interview with a representative of humanitarian organization, Beirut, September 21, 2018.

⁴² Human Rights Watch interview with former Office of the UN High Commissioner for Refugees (UNHCR) worker, February 23, 2019; Human Rights Watch interview with two protection officers, Amman, December 11, 2018.

⁴³ Human Rights Watch interview with two protection officers, Amman, December 11, 2018.

According to the Office of the UN High Commissioner for Refugees' (UNHCR) own protection mandate governing voluntary repatriation, UNHCR cannot facilitate or promote voluntary refugee repatriation unless the agency can access returnees to ensure the fulfilment of specific criteria underlying voluntary repatriation as elucidated in its principles.⁴⁴

In a second example, a former humanitarian worker told Human Rights Watch her organization had agreed to implement a project in Latakia governorate, but was refused permission to visit the town in which the project took place to assess it.⁴⁵ The humanitarian, herself originally from the area, suggested that she could visit in an unofficial capacity to check on the project, but was refused permission by the humanitarian agency itself in fear of the government finding out and expelling the organization.⁴⁶ The organization continued with the project despite not being able to visit, monitor, or verify whether the activities were taking place.

In addition to denying access to certain areas within government-held Syria, the government can also restrict humanitarians' operating ability by preventing them from registering in Damascus and denying or delaying their employees' applications for visas to Damascus.

In early March 2019, the Syrian government issued a list of humanitarian organizations that would not be allowed to register or operate in government-held Syria, due to their politics.⁴⁷ The Syrian government uses visa and registration approvals to create a climate of uncertainty among humanitarians and discourages them from entering into difficult negotiations with the government for fear of being expelled from the country. In one incident reported to Human Rights Watch by two humanitarians separately, a humanitarian organization held a meeting with the Syrian Ministry of Foreign Affairs (MOFA) and the Ministry of Social Affairs (MOSA) to discuss a project to provide legal aid through a group of local, registered lawyers. The Ministry of Social Affairs had already approved the project

⁴⁴ UNHCR, "Voluntary Repatriation: International Protection," 1996, <https://www.unhcr.org/publications/legal/3bfe68d32/handbook-voluntary-repatriation-international-protection.html> (last accessed May 7, 2019), section 6.1: "In any voluntary repatriation where UNHCR plays a part, the principle of return in safety and with dignity does not cease to apply once the return movement is completed, but applies and should be monitored until such time as the situation in the country of origin can be considered stable, national protection is again available, and the refugee is reintegrated."

⁴⁵ Human Rights Watch interview with former humanitarian worker, Beirut, January 15, 2019,

⁴⁶ Ibid.

⁴⁷ Human Rights Watch interview with humanitarian worker, remote, March 2019.

but at the meeting the MOFA indicated that it would not allow the project to continue. The next day, the visas of the international staff of the humanitarian organization were revoked by the MOFA and the organization was forced to terminate the project.⁴⁸ In another incident, in response to a report by an agency that identified areas that were difficult to access inside government-held Syria, the MOFA delayed the renewal of visas for staff, one staff member said.⁴⁹

For a humanitarian organization or UN agency to be able to devise and implement programming, it needs unimpeded access to populations.⁵⁰ The restrictions on organizations' ability to access areas where they have programs and engage their beneficiaries means that their ability to assess the needs of the population, and program accordingly is restricted at best. Every humanitarian worker told Human Rights Watch that a priority of theirs was continued and expanded access to areas in Syria.⁵¹

Addressing Key Human Rights Concerns Through Protection Programming

One of the areas of programming that has been hit the hardest as a result of the government's policies to co-opt humanitarian assistance has been protection.⁵²

As such a response to the protection needs of the population, and particularly urgent ones, should include the key human rights violations that the Syrian population experiences or is at risk of experiencing – including arbitrary arrest and detention, torture and other ill-treatment, and general detention conditions, among other civil and political

⁴⁸ Human Rights Watch interview with humanitarian at UN agency who was in attendance, Beirut, January 2019; interview with humanitarian in November 2018.

⁴⁹ Human Rights Watch interview with UN staff member, Amman, July 2018.

⁵⁰ See International Committee of the Red Cross (ICRC), Customary International Law Database, Rule 55, https://ihl-databases.icrc.org/customary-ihl/eng/docs/v2_rul_rule55_sectiona (accessed March 25, 2019)

⁵¹ Human Rights Watch interviews with 19 representatives of humanitarian organizations including international and local humanitarian organizations and UN agencies, July 2018 to March 2019.

⁵² The UNHCR defines protection as: "seeking to uphold the basic human rights of uprooted or stateless people in their countries of asylum or habitual residence, ... attempt to promote or provide legal and physical protection, and minimize the threat of violence – including sexual assault – which many refugees are subject to, even in countries of asylum. They also seek to provide at least a minimum of shelter, food, water and medical care in the immediate aftermath of any refugee exodus. UNHCR, "Protection," <https://www.unhcr.org/en-us/protection.html> (accessed May 7, 2019); The ICRC defines it as: "ensuring that authorities and other actors respect their obligations and the rights of individuals in order to preserve the safety, physical integrity and dignity of those affected by armed conflict and other situations of violence. Protection includes efforts to prevent or put a stop to actual or potential violations of IHL and other relevant bodies of law or norms." ICRC, "ICRC Protection Policy," September 2008, <https://www.icrc.org/en/download/file/20806/irrc-871-icrc-protection-policy.pdf> (accessed May 7, 2019).

rights. Despite the well-established presence of humanitarian agencies with strong protection mandates, the Syrian government's restrictions precluded them from responding to key human rights and protection concerns as identified by independent human rights organizations and UN bodies.⁵³

This is likely in large part due to the authorities' known sensitivity to human rights and protection programming. Syrian authorities have maintained a complete ban on independent human rights monitors. While they have afforded some independent monitors limited access to some detention facilities, that access has been irregular, and did not include access to facilities where the worst practices were being carried out, according to local lawyers and publicly available reporting.⁵⁴ UNHCR also has only limited and sporadic access to communities of returnees or internally displaced persons.⁵⁵ According to former and current protection officers of numerous agencies, if authorities know that a humanitarian organization intends to carry out activities that address or allow for human rights monitoring, or bring in a human rights-based approach to their work, the government will be more restrictive, deny access, and even threaten to revoke staff visas.⁵⁶

Publicly available documents on protection programming also illustrates this gap. The Syrian Ministry of Social Affairs publishes a database on protection and community-based activities in government-held Syria.⁵⁷ The primary activities being carried out are the development of community centers for women and youth, raising awareness regarding sexual violence, and some child protection projects that look at rehabilitating child soldiers and psychosocial support.⁵⁸ These programs do not address other key human rights concerns highlighted by human rights organizations and agencies, including kidnappings, abductions, restrictions on freedom of movement, and harassment that are

⁵³ Sara Kayyali (Human Rights Watch), "Post-War Syria?," commentary, *Lobellog*, December 12, 2018, <https://www.hrw.org/news/2018/12/12/post-war-syria>.

⁵⁴ Human Rights Watch interview with two protection workers (names and affiliation withheld), Amman, December 11, 2018.

⁵⁵ Public comments by UNHCR protection leads.

⁵⁶ Human Rights Watch interview with two protection workers (names and affiliation withheld), Amman, December 11, 2018; Human Rights Watch interview with UN staff member, Amman, July 2018.

⁵⁷ Syrian Ministry of Social Affairs and Labor, "Mapping of Protection Static Facilities as of August 2018," <https://app.powerbi.com/view?r=eyJrljoiMjRIMjA1M2MtOTY1NCooZTZmLWJlNjEtNWU3MTM3YmViMWVmlwiidCl6ImZlNWU3N2EzLTMoZGQtdNDQxOS1hMTk4LTA3YTQzZDQzOTJkYSIsImMiOjI9> (accessed March 25, 2019); UNHCR, "Protection and Community Services Sector Database," <http://pcss.syriadata.org/> (accessed March 25, 2019).

⁵⁸ Ibid; Human Rights Watch interview with three humanitarians (names and affiliation withheld), December 2018 and January 2019.

within their mandate to respond to. Programming also fails to address key concerns posed by the UN Office of the High Commissioner for Human Rights, and other human rights organizations, around ill-treatment and torture, arbitrary detention, and forced displacement.⁵⁹ In correspondence with the UNHCR, the agency confirmed the scope of the programming indicated above.

While the protection program that is occurring is important, more systematic rights abuses are not being addressed, sustaining a more hostile environment in which the agencies operate. For example, while there are some services to allow families to submit tracing requests regarding the missing, the information is not public and the methods used to submit information in Syria, including in-person visits, result in heightened risks for the population due to monitoring by the Syrian intelligence branches, according to beneficiaries who have attempted to avail themselves of these services.⁶⁰ A protection officer told Human Rights Watch that given the restrictions imposed by the Syrian government, his organization working in Syria is better placed to provide humanitarian assistance rather than traditional protection assistance.⁶¹ When asked about the communications with the government and whether his organization negotiates more protection activities, the officer responded that given the difficulties, most of its engagement with the government has been on maintaining access for its staff.

Recognizing the major gap in the protection of vulnerable Syrian populations that is not being filled, donors have attempted to prioritize programming that addresses human rights concerns through protection by earmarking their funds to it, and encouraging on-the-ground actors to take it on.⁶² Despite this, little effective protection programming has actually been implemented.

⁵⁹ See e.g., Independent International Commission of Inquiry on the Syrian Arab Republic, “Detention in the Syrian Arab Republic: A Way Forward,” March 8, 2018, https://www.ohchr.org/Documents/HRBodies/HRCouncil/CoISyria/AWayForward_DetentionInSyria.pdf (accessed May 22, 2019).

⁶⁰ Human Rights Watch interview with two humanitarians (names and affiliation withheld), Amman, December 11, 2018.

⁶¹ *Ibid.*

⁶² Human Rights Watch interview with a representative of donor state (name withheld), November 2018; Human Rights Watch interview with a humanitarian (name withheld), Amman, December 2018.

One humanitarian told Human Rights Watch: “The donors try to make protection programming the first line of every budget. What they don’t understand is that in an operating environment like this, we can do no real protection.” Instead, humanitarians either undertake “soft” protection programming such as raising awareness, and dealing with sexual violence, or reconfigure traditional aid projects to be included under protection work.⁶³

As one protection officer told Human Rights Watch,

If you give a Syrian woman the option of an awareness session on sexual-based violence, or the opportunity to find more information about the condition of her detained husband, which one would be more important? We know the answer, but we can’t make it happen.⁶⁴

The negative human rights impact of these restrictions on protection programming is tangible. The restrictions severely undermine humanitarian organizations’ ability to promote human rights in their programming, even where their mandate requires it. This flawed protection planning creates a false impression that protection concerns are being addressed, while leaving major gaps in the protection of human rights.

Potential Rights Abusers as Humanitarian Partners

As in all other contexts, UN agencies and international humanitarian organizations that want to operate in government-held Syria can do so only with the explicit permission of the Syrian government, but the government requires that all international organizations partner with local Syrian organizations that have been vetted and preapproved by the authorities, or with relevant line ministries. The Ministry of Foreign Affairs, in collaboration with the Ministry of Social Affairs, provides a list of preapproved partners for the organizations to choose from that have already been vetted by Syrian intelligence branches.⁶⁵

⁶³ Human Rights Watch interview with a humanitarian (name withheld), Amman, December 2018.

⁶⁴ Human Rights Watch interview with a former humanitarian worker, Beirut, January 15, 2019.

⁶⁵ Human Rights Watch interview with three international humanitarian workers, two local staff members, and two independent experts, between July 2018 and March 2019; List from 2016 of health organizations on file with Human Rights Watch.

According to local and international humanitarian workers, even when an organization can implement its own programming, it still relies on local partners to facilitate entry visas, and to provide access permissions within the country, and project approvals. Local partners are often also the only actors who can carry out field assessments and beneficiary selection and then monitor and report back on implementation.⁶⁶

Of the 13 humanitarian organizations with whom Human Rights Watch spoke, 12 partnered with either the Syrian Arab Red Crescent (SARC) or the Syria Trust for Development (Syria Trust). SARC is a local humanitarian organization in Syria, which has been recognized by the ICRC. It is one of the largest operating humanitarian organizations in the country, with an office in each of Syria's 14 governorates, and 75 sub-offices according to its website.⁶⁷ It also boasts a large number of volunteers. SARC is closely affiliated with the government, and has strong relations with the Syrian security services.⁶⁸ Its partners include the ICRC, several major UN agencies, including those with a protection mandate, and several prominent international organizations, including the Danish Refugee Council, Premier Urgence, International Medical Corps, and Terre des Hommes.⁶⁹

The Syria Trust for Development is another major nongovernmental organization which carries out programming relating to humanitarian aid, youth development, and civic engagement.⁷⁰ According to experts, many of the original volunteers from the Syria Trust participated in the initial uprisings.⁷¹ Syria Trust maintains strong relations with the government, including through its founder, the Syrian president's wife, Asma' al-Assad.⁷²

One international humanitarian organization avoided SARC and Syria Trust, but had to implement its programs in direct partnership with the relevant line ministries. Under the government's rules, UN agencies can partner with national NGOs, line ministries, SARC, or approved international humanitarian organizations.

⁶⁶ Ibid.

⁶⁷ SARC, accessed March 25, 2019, <http://sarc.sy/>.

⁶⁸ Human Rights Watch Interview with two former SARC employees and two government officials (names withheld), July 2018 and September 2018.

⁶⁹ SARC.

⁷⁰ Human Rights Watch interview with two former Syria Trust employees and one independent expert, between July 2018 and March 2019.

⁷¹ Ibid.

⁷² Syria Trust, Annual Report 2016, http://www.syriatrust.sy/files/reports/Annual%20Report%202016_1503235885.pdf (accessed March 20, 2019).

Human Rights Watch interviewed current and former SARC employees, as well as local and international staff belonging to international humanitarian organizations operating in government-held territory to understand how local partners affect project implementation.

While in other conflict situations, humanitarian organizations and UN agencies typically can and do partner with local organizations, the limitations on whom these organizations are able to partner up with in Syria creates an increased risk of aid diversion away from people in need, and in several cases, toward funding or supporting parts of the state that are known to have been involved in rights abuses. There are several reasons for this diversion as this report shows: intelligence branches can and do interfere with operations to undermine humanitarian objectives; in some cases, preapproved partners have links to rights abusers and are not adequately vetted by humanitarians and UN agencies; and, as experience from Syria and other conflict situations indicates with lack of access, overreliance on local partners leads to increased risk of aid diversion.

Human Rights Watch wrote to SARC on April 22, 2019 requesting information regarding the interference of intelligence services with SARC's work; procedures adopted to hold employees accountable for corruption and investigate abuses; types of partnerships and assurances regarding access and prevention of contribution of technical assistance to human rights abuses or sectors where human rights abuses proliferate. On May 22, SARC responded to Human Rights Watch in a letter, confirming its partnership with 13 INGOs, almost all UN agencies and the ICRC, indicating that for the ICRC, some staff is embedded in SARC headquarters. The letter said that memorandums of understanding (MOUs) for INGOs, cover cooperation and coordination. For UN agencies, SARC undertakes implementation, distribution and reporting, while partners or third parties undertake monitoring as facilitated by SARC, and designs interventions in coordination with partners. SARC indicated it carried out needs-assessments as agreed upon with their partners, and that the beneficiary selection was based on agreed vulnerability criteria between SARC and the partners. The letter did not clarify to what extent partners were able to select beneficiaries themselves.

While the letter emphasized that SARC's projects in Syria are "driven by humanitarian needs only," "based on needs-assessment carried on by SARC volunteers," that "SARC staff and volunteers should not have any engagement with any party to the conflict in a way that jeopardizes or breaches...Fundamental Principles - especially neutrality,

impartiality and independency,” and that “reporting, monitoring and evaluation are set to have a complete project cycle that satisfies the back donors and partners” the letter did not address what procedures were in place to prevent contribution to human rights violations. It did acknowledge a “few cases of breaches” of the Fundamental Principles or the Code of Conduct by staff noting that in these cases, following internal investigations staff members were fired, and volunteers dismissed and further stated that SARC may suspend operations in cases of interference, “until the necessary guarantees are given” but did not address coordination with security forces or challenges that arise from it.

All humanitarian organizations working with SARC that Human Rights Watch spoke to expressed concerns regarding the restrictions imposed on them by local partners, as well as the interference of the security services in the distribution and beneficiary lists, which compromises their ability to program. They indicated that the overreliance on SARC as a local partner and inability to choose local partners, made it difficult to assess and ensure that reporting is credible.

Impact of intelligence branches’ role in aid operations

The list of preapproved local partners provided by the Ministry of Foreign Affairs and the Ministry of Social Affairs list of preapproved local partners includes only organizations that have been vetted by Syrian intelligence branches.⁷³ The Syrian intelligence branches are also empowered to interfere with the work of humanitarian organizations and can prevent them from carrying it out.⁷⁴ This gives them leverage to demand access to organizations’ beneficiary lists; make decisions on where organizations can distribute aid; and confiscate aid supplies. Despite their long history of systematic rights abuses, the intelligence branches can also demand that they accompany an organization into the field and monitor implementation of projects.⁷⁵

Human Rights Watch has documented systematic and widespread abuses by the Syrian intelligence branches, including arbitrarily arresting civilians, human rights defenders, and

⁷³ Human Rights Watch interview with three international humanitarian workers, and two independent experts, between July 2018 and March 2019; Human Rights Watch interviews with SARC and Syria Trust employees, between July and March 2019.

⁷⁴ Ibid.

⁷⁵ Human Rights Watch interview with three international humanitarian workers, two local staff members, and two independent experts, between July 2018 and March 2019.

humanitarians, and torturing and killing them.⁷⁶ The scale of abuses documented by the Syrian intelligence branches has resulted in sanctions by Western countries, and the prosecutors and judges in some jurisdictions, such as France and Germany, have already issued arrest warrants for the heads of these branches; others are considering doing the same.⁷⁷

At least five local staff at partner organizations that Human Rights Watch spoke to said that their organizations had to maintain very close and regular communication with the Syrian intelligence branches to conduct their work and described how this interfered with their ability to meet their humanitarian objectives.⁷⁸ The interviewees said that intelligence branches could at any point request access to beneficiary data, provide approvals for aid distribution and oversight of delivery of aid to populations in need.⁷⁹ Documents pertaining to aid delivery and distribution of medical supplies one former SARC worker provided to Human Rights Watch confirm that the approval of the Syrian intelligence branches is required for these shipments, and staff of local organizations said that branches were responsible for inspecting aid deliveries, accompanying convoys on their distribution routes, or being involved in approving humanitarian projects or rejecting them.⁸⁰ Instead of protecting or facilitating the operations, though, they used their access to actively interfere with the delivery of humanitarian aid, confiscate supplies for personal use or resale, and remove life-saving supplies from aid convoys.⁸¹

⁷⁶ Human Rights Watch, *Torture Archipelago: Arbitrary Arrests, Torture, and Enforced Disappearances in Syria's Underground Prisons since March 2011* (New York: Human Rights Watch, 2012), <https://www.hrw.org/report/2012/07/03/torture-archipelago/arbitrary-arrests-torture-and-enforced-disappearances-syrias>; Human Rights Watch, *If the Dead Could Speak: Mass Deaths and Torture in Syria's Detention Facilities*, (New York: Human Rights Watch, 2015), <https://www.hrw.org/report/2015/12/16/if-dead-could-speak/mass-deaths-and-torture-syrias-detention-facilities>.

⁷⁷ “Factbox: Sanctions imposed on Syria,” Reuters, February 24, 2012, <https://www.reuters.com/article/us-syria-eu-sanctions/factbox-sanctions-imposed-on-syria-idUSTRE81N1JL20120224> (accessed March 25, 2019); “France issues arrest warrants for three Syrian security officials over prison torture,” France 24, November 5, 2018, <https://www.france24.com/en/20181105-france-syria-arrest-warrants-security-officials-french-prisoners> (accessed March 25, 2019)

⁷⁸ Human Rights Watch interviews with SARC and Syria Trust employees, between July and March 2019.

⁷⁹ Ibid.

⁸⁰ Copies of documents on file with Human Rights Watch; Human Rights Watch interviews with SARC and Syria Trust employees, between July and March 2019.

⁸¹ Human Rights Watch interview with former SARC employee, August 2018; Human Rights Watch interview with UN employee on January 16, 2019.

Humanitarian organizations are likely to play a role in facilitating returns and rehabilitating homes for displaced Syrians and given the role that the intelligence branches have played on these issues, there is a real risk that they would attempt to unduly influence humanitarian programming.

Because of the coercive power of the intelligence branches within Syria, local and international humanitarians told Human Rights Watch that local organizations put up little resistance to their abusive practices.⁸² Some staff of local organizations were even accused of being complicit in the abuse. A former SARC employee told Human Rights Watch that over the course of the four years he spent with the organization, he witnessed several incidents where high-level intelligence officers collaborated with SARC employees to steal and resell humanitarian supplies.⁸³ He shared pictures of the supplies he said were stolen, and broken seals on shipments which he said had been breached by the intelligence branches.⁸⁴ Another human rights activist shared images of aid supplies stored in what he claimed to be an Air Force Intelligence branch.⁸⁵

At the same time, international organizations rarely engage with the intelligence branches directly. As one humanitarian put it:

The security services don't need to interact with the internationals. The local partner provides the perfect interface; they provide the security services with the information they want and do what they say. If you resist – well, you cease to exist.⁸⁶

Preapproved partners' ties to rights abusers and inadequate vetting

Intelligence branch involvement and interference with humanitarian operations is not the only way that restrictions on choosing local partners creates abuse. In some cases, Syrian government preapproved local partners have been shown to have ties to the government

⁸² Human Rights Watch interview with six humanitarians, including three former SARC employees, between August 2018 and January 2019.

⁸³ Human Rights Watch interview with former SARC employee, August 2018; Images on file with Human Rights Watch.

⁸⁴ Images on file with Human Rights Watch.

⁸⁵ Syria Justice & Accountability Centre, "The Walls Have Ears: An Analysis of Classified Syrian Security Sector Documents," May 21, 2019.

⁸⁶ Human Rights Watch interview with a UN employee, January 16, 2019.

or sanctioned government officials and in other cases to military units responsible for war crimes and human rights violations. Given the scale of the humanitarian response, and the funding it brings in, former war lords, or state officials, have worked to profit from these opportunities, creating nongovernmental and humanitarian organizations to enable them to benefit from the funding.⁸⁷

OCHA maintains a database of National Syrian NGOs that have implemented projects on their or other UN agencies' behalf.⁸⁸ At least **three of these organizations** are publicly affiliated with members of the Syrian army or affiliated militias, the Syrian government, or individuals and/or entities who are under international sanctions, including for involvement in abuses of human rights and international humanitarian law.⁸⁹

The al-Shaheed Foundation, another preapproved local partner, is chaired by the founder of the National Defense Forces in Homs.⁹⁰ The National Defense Forces (NDF) have been responsible, alongside Syrian security forces, for capturing and executing people who were trying to escape as the army took over their towns, or was conducting house searches.⁹¹ Alongside government forces, the NDF has also reportedly committed sexual violence against women they captured in raids, looted property of displaced residents, and prevented residents from returning to their homes.⁹²

Some UN agencies have also partnered with ministries implicated in human rights violations.

A document published by UNHCR in July 2018 shows that the agency partnered with the Ministry of Interior, SARC, and Syria Trust to raise public awareness about civil

⁸⁷ Human Rights Watch interviews with two independent experts on the war economy in Syria, January 10, 2019 and March 20, 2019.

⁸⁸ OCHA, "Syrian Arab Republic: Organizations Implementing Humanitarian Activities Based Within Syria," OCHA 4Ws Database, undated, <http://www.ocha-sy.org/4wspresence2018.html> (accessed March 25, 2019).

⁸⁹ Database on file with Human Rights Watch.

⁹⁰ Screenshots of posts on Facebook on file with Human Rights Watch,

⁹¹ Human Rights Watch, *In Cold Blood: Summary Executions: Summary Executions by Syrian Security Forces and Pro-Government Militias* (New York: Human Rights Watch, 2012), <https://www.hrw.org/report/2012/04/09/cold-blood/summary-executions-syrian-security-forces-and-pro-government-militias>.

⁹² UN Human Rights Council, Conference room paper of the Independent International Commission of Inquiry on the Syrian Arab Republic, A/HRC/37/CRP.3, March 8, 2018 <https://www.ohchr.org/Documents/HRBodies/HRCouncil/ColSyria/A-HRC-37-CRP-3.pdf> (accessed May 22, 2019).

documentation and registration.⁹³ The public booklet included language stating that it had “been produced in cooperation between the Ministry of Interior /General Directorate of Civil Affairs, and the Office of the United Nations High Commissioner for Refugees (UNHCR) in Syria.”⁹³

On April 15, 2019 Human Rights Watch sent a letter to UNHCR requesting information about the agency’s partnership with the Ministry of Interior. In response, on June 16, UNHCR responded noting that “UNHCR does not have a formal partnership with the Ministry of Interior” and that there is no memorandum of understanding between the agency and the ministry.

UNHCR’s 2018 objective to provide support to civil registration in government-held Syria to “support national counterparts in addressing issues pertaining to civil registration/documentation, as well as Housing, Land, and Property (HLP) rights” was positive in that it recognized the serious obstacles facing Syrians who have lost their civil documentation. However, by partnering or cooperating with the Ministry of Interior, even if informally, UNHCR risks furthering rights abuse, both for its cooperation with an entity known to have committed human rights abuses, and for doing so on an issue – civil registration and HLP rights –where the government has passed and implemented laws that violate the populations’ rights.⁹⁴

The Ministry of Interior is a branch of the government that is known to have been implicated in abuses against the Syrian population. It was directly involved in the repression of the civilian population in 2011-2012 and has been sanctioned by the European Union on that basis.⁹⁵ At the time of writing, the Ministry is led by Major General Mohammad Khaled al-Rahmoun, who was previously the head of the Political Intelligence

⁹³ UNHCR, “Syrian Arab Republic: Operations 2018,” undated, <http://reporting.unhcr.org/node/2530?y=2018#year> (accessed March 25, 2019); UNHCR and the Syrian Ministry of Interior, “Civil Documentation and Registration in the Syrian Arab Republic,” July 2018, <https://www.unhcr.org/sy/wp-content/uploads/sites/3/2018/09/Personal-Documentation-En-Jul-2018.pdf> (accessed March 25, 2019).

⁹⁴ UNHCR, Financials 2018, undated, <http://reporting.unhcr.org/financial> (accessed March 25, 2019).

⁹⁵ Council Implementing Decision 2012/335/CFSP of 25 June 2012 implementing Council Decision 2011/782/CFSP concerning restrictive measures against Syria, OJ L 165, 26.6.2012, *pp. 80–82*

Directorate and Air Force Intelligence. He is also sanctioned by the European Union and the United States.⁹⁶

The Ministry of Interior is also formally responsible for the Political Intelligence Directorate, an intelligence branch that itself has committed abuses, including the arbitrarily detention and mistreatment of individuals.⁹⁷ Experts on the Syrian security sector told Human Rights Watch that the intelligence directorate exerts a significant degree of control on the ministry's operations, raising even greater concerns.⁹⁸

The Ministry of Interior, through its intelligence branches, has also been implicated in abuses specific to this issue. It has blocked internally displaced people from returning to their areas of origin,⁹⁹ and refused to provide refugees seeking return with security clearance to return and confiscated their civil documentation and other identification documents.¹⁰⁰ Where a government branch is known to be implicated in abuses, absent a real and concrete reform of the branch and its policies, UN agencies should not be partnering with, providing technical or financial assistance to such entities.

The main reason humanitarian and UN employees cite for agreeing to partner with organizations with ties to abusive actors is that they do not have other options – if they want to obtain access or implement projects they are required to partner with the limited options provided.¹⁰¹ In August 2018, the Syrian government imposed a strict ban on the provision of legal aid support to beneficiary populations except through SARC and Syria Trust. Humanitarians with whom Human Rights Watch spoke indicated this was a dangerous move, as they knew that the Syrian government demanded that these two organizations share lists of beneficiaries with it, as well as the questions and issues

⁹⁶ Council Implementing Decision (CFSP) 2019/351 of 4 March 2019 implementing Decision 2013/255/CFSP concerning restrictive measures against Syria, ST/6079/2019/INIT, OJ L 63I, 4.3.2019, (accessed June 16, 2019), pp. 4–6.; “The Latest: Syria’s Assad Reshuffles Cabinet,” The Associated Press, November 26, 2018, <https://www.apnews.com/69b58e53fd4940f4b3743a30d208706d> (accessed June 16, 2019).

⁹⁷ See e.g. Human Rights Watch, *Torture Archipelago*.

⁹⁸ Omran Center for Strategic Studies, “Changing the Security Center in Syria,” October 2017, <https://omranstudies.org/publications/papers/book-changing-the-security-sector-in-syria.html> (accessed May 22, 2019).

⁹⁹ Human Rights Watch interviews with residents of Yabroud (December 2017), al-Qusair (January and February 2019), Daraa, Daraya (May, June, and July 2018), and Qaboun (June and July 2018), between December 2017 and February 2019.

¹⁰⁰ Human Rights Watch group interview with returnees from Zabadani, July 2018.

¹⁰¹ Human Rights Watch interviews with 10 humanitarian workers, between July 2018 and March 2019.

raised.¹⁰² According to the humanitarians, this meant that sensitive and usually confidential information was being handed to Syrian intelligence branches, violating the population's right to privacy and creating increased exposure to abuse as a result.

Humanitarians told Human Rights Watch that the Syrian authorities refused to allow UNHCR to distribute tents in al-Hol camp for internally displaced people because they disagreed in negotiations over the role SARC would play. They said SARC wanted to play a more substantive role in the camp, which is in an area held by Kurdish-led authorities and where the Kurdish Red Crescent (KRC) takes the lead as a partner.¹⁰³ Human Rights Watch wrote to UNCHR on April 15, 2019 noting that our research indicated that UNHCR faced difficulties in early 2019, when Syrian authorities refused to allow UNHCR to distribute tents in al-Hol camp for internally displaced people because they disagreed in negotiations over the role SARC would play. In response to our correspondence, on June 16, UNHCR wrote to Human Rights Watch and stated that they “did not encounter the incident described” in our letter, asserting that as the displaced arrived, “without hinderance by any parties, UNHCR released the tents available and mobilized its logistics to move tents available in other location in Syria to Al Hol.”

This information was contradicted by camp authorities and aid workers in the camp who Human Rights Watch interviewed who said that the delay caused by the dispute remained in place for two weeks, causing a shelter crisis in the camp with many displaced people living in overcrowded conditions in reception areas or outside of the camp altogether.¹⁰⁴ According to these aid workers, these power struggles resulted in depriving populations in need of access to desperately needed assistance.

In a second incident, the Syrian government told Damascus-based organizations that all programming as relates to legal support and civil registration had to happen through Syria Trust.¹⁰⁵ One organization refused, and informed the Syrian government that it would not carry out the project, if its own staff was not empowered to implement it, and then had to

¹⁰² Human Rights Watch interview with a humanitarian worker, April 2019.

¹⁰³ Human Rights Watch interview with a humanitarian employee (name withheld), February 1, 2019; Human Rights Watch interview with al-Hol camp authorities, February 4, 2019.

¹⁰⁴ Human Rights Watch interview with four humanitarian workers in al-Hol camp, and camp authorities, February 2019.

¹⁰⁵ Human Rights Watch interview with a UN official present at the meeting (name withheld), January 16, 2019.

pull out.¹⁰⁶ Given widespread documentation of the government violating beneficiaries' property rights, with this ban in place, the organization and other humanitarians expressed concern regarding the local organizations' ability to carry out the programming.

The concerns arising from the problematic ties that preapproved partners have to rights abusers are exacerbated by the inadequacy of the vetting process used by UN agencies and international organizations. Previously, according to humanitarians and experts, UN agencies and organizations did not vet partners in a way that would allow them to identify whether they were committing human rights abuses or were under sanctions.¹⁰⁷ The current practice is for UN agencies and humanitarian organizations to vet primary partners more thoroughly, but there are still several challenges.¹⁰⁸

According to one monitoring and evaluation officer, the databases used by NGOs to search and check on partners do not provide the level of detail necessary to identify whether a partner is involved in human rights abuses or is under sanctions.¹⁰⁹ Organizations typically conduct the additional due diligence necessary to identify these risks only if it is required by a donor.¹¹⁰ According to independent experts and former UN workers, the UN is still not vetting secondary partners or subcontractors.¹¹¹ For the UN agencies, unless sanctions are imposed by the United Nations, they are not obligated to abide by them.¹¹²

The failure to adequately vet partners and the willingness to work with partners with known ties to abusive actors simply because they are preapproved have resulted in resources being channeled to these abusive actors and to compromised or failed humanitarian programming.

In one case documented by Human Rights Watch, the willingness of a UN agency to partner with a group affiliated with a known abusive actor resulted in the organization taking all

¹⁰⁶ Human Rights Watch interviews with humanitarian worker, April 23, 2019.

¹⁰⁷ Human Rights Watch interview with an independent expert on humanitarian aid, January 16, 2019; Human Rights Watch interview with a former UN worker, January 15, 2019 and UN officer, January 11, 2019. Human Rights Watch interview with former UNHCR worker, February 23, 2019.

¹⁰⁸ Human Rights Watch interview with an independent expert on humanitarian aid, January 16, 2019; Human Rights Watch interview with a former UN employee worker, January 15, 2019 and UN officer, January 11, 2019.

¹⁰⁹ Human Rights Watch interview with a monitoring and evaluation officer, March 20, 2019.

¹¹⁰ Ibid.

¹¹¹ Human Rights Watch interview with an independent expert and UN employee in January 2019.

¹¹² Ibid.

the funding and not delivering the promised project.¹¹³ A technical officer previously employed with the UN agency explained that an organization affiliated with a member of a notoriously abusive section of the National Defense Forces applied to be selected as an agency partner. The organization, which had only existed for six months, was preapproved even though it fell short of the criteria that the Syrian Ministry of Foreign Affairs had itself designated for partners to be able to get on the shortlist. When the UN officer raised this, as well as the organization's absence of technical expertise, questions regarding their adherence to humanitarian principles, and ties to an abusive actor, her supervisor told her that the organization was on the list and that the highest in-country representative of the agency said they needed to partner with them because they were highly recommended by a high-level official whose support was needed for the agency to continue its work.¹¹⁴

The former technical officer said that approximately six months after partnering with the group, a field officer was able to access the site of one of the project activities and reported to her that the site was empty. The organization had been receiving the money from the UN agency for six months, and instead of carrying out activities had been forging the signatures of the purported beneficiaries.¹¹⁵

¹¹³ Human Rights Watch interview with a UN agency worker, January 15, 2019.

¹¹⁴ Human Rights Watch interview with a former UN worker, January 15, 2019.

¹¹⁵ Ibid.

Policies that Create Human Rights Risks in Reconstruction Funding

More than a third of Syria's physical infrastructure has been damaged or destroyed by the war, primarily at the hands of the Syrian-Russian military alliance.¹¹⁶ Entities engaged in the monumental task of reconstructing Syria face many of the same human rights risks as those providing humanitarian aid, such as restricted access to project areas and the requirement to partner with individuals or organizations implicated in abuse.¹¹⁷ But they also must contend with a series of urban planning and investment laws that grant the government vast power to seize and demolish property without adequate transparency, or compensation. The government's ostensible purpose for passing these laws is to create development and investment opportunities, develop property, and reconstruct Syria. However, it has implemented them through de facto practices and policies on returns and reconstruction that disproportionately harm poorer Syrians and those it perceives as political opponents by restricting their right to return to their areas of origin, and ensuring that they are unable to procure adequate housing or shelter in their areas of origin, forcing them to remain displaced. Moreover, in extreme cases, reconstruction projects that rehabilitate infrastructure of abusive government agencies can facilitate abuses by empowering them to continue forcibly displacing, torturing, and arbitrarily detaining individuals.

United Nations agencies and government bodies who participate in reconstruction efforts risk complicity in the government's human rights violations, for example by providing funding knowing their funds will be used to assist or facilitate ongoing abuses or for projects that will be implemented in an abusive way. Individuals and other organizations, including humanitarian organizations, may risk criminal complicity by knowingly providing

¹¹⁶ The World Bank, "The Toll of War: The Economic and Social Consequences of the War in Syria," July 10, 2017, <https://www.worldbank.org/en/country/syria/publication/the-toll-of-war-the-economic-and-social-consequences-of-the-conflict-in-syria> (accessed March 25, 2019).

¹¹⁷ Reconstruction refers to the medium- and long-term rebuilding and sustainable restoration of resilient critical infrastructures, services, housing, facilities, and livelihoods required for the full functioning of a community or a society. Civilian infrastructure and services may include schools, hospitals, major physical infrastructure, water, and sanitation systems. Humanitarian aid may involve the reconstruction and rehabilitation of infrastructure, potentially at a smaller scale than traditional reconstruction projects. Humanitarian aid also involves the delivery of humanitarian relief, which extends beyond rehabilitation of infrastructure, to provision of food, medical aid, cash, and protection among others.

substantial assistance to the commission of international crimes. At the very least, companies, individuals, and humanitarian organizations should ensure that they are aware of the key human rights abuses and risks in the sectors in which they are operating, and ensure that they tailor programming to uphold human rights and avoid contributing to these risks.

An Arsenal of Urban Planning Laws That Facilitate Rights Abuse

The Syrian government has passed several urban planning laws that allow it to create redevelopment zones, and appropriate private property without due process or compensation, and remove the rubble of demolished buildings.¹¹⁸ While the government has promoted these laws as facilitating reconstruction, Human Rights Watch has shown that both these laws and the Syrian government's de facto practices contravene international law, and disproportionately harm poorer citizens and people perceived to be opposed to the government.¹¹⁹ Given the extent of damage and destruction in Syria, it is likely that any reconstruction funding will address physical infrastructure and property. To that end, this section addresses human rights concerns that arise out of laws that seek to facilitate reconstruction and address private property.

Using urban planning laws and policies in a discriminatory manner is the latest in the long-standing practice of the Syrian government to punish and discriminate against Syrian civilians who express political dissent or are perceived to be sympathetic to dissenters.¹²⁰ In April 2018, the government passed Law No. 10, which it promoted as an urban planning and reconstruction law, but which in practice allowed the Syrian government to unlawfully appropriate residents' private property.¹²¹ The law joined a slew of other instruments, including Law No. 3 of 2018, Decree 63 of the Counterterrorism Law of 2012, which allowed the government to freeze the assets and property of perceived opponents under the overbroad Counterterrorism Law, and Decree 66, Law 10's predecessor, which allowed the

¹¹⁸ "Q&A: Syria's New Property Law," Human Rights Watch Q & A, May 29, 2018, <https://www.hrw.org/news/2018/05/29/qa-syrias-new-property-law>.

¹¹⁹ Human Rights Watch, *Razed to the Ground: Syria's Unlawful Neighborhood Demolitions in 2012-13* (New York: Human Rights Watch, 2014), <https://www.hrw.org/report/2014/01/30/razed-ground/syrias-unlawful-neighborhood-demolitions-2012-2013>.

¹²⁰ Human Rights Watch, *A Wasted Decade: Human Rights in Syria during Bashar al-Asad's First Ten Years in Power* (New York: Human Rights Watch, 2010), <https://www.hrw.org/report/2010/07/16/wasted-decade/human-rights-syria-during-bashar-al-asads-first-ten-years-power>.

¹²¹ "Q&A: Syria's New Property Law," Human Rights Watch Q & A.

government to confiscate and redevelop property without providing residents with adequate compensation or alternative housing.

Law No. 10

Law No. 10 empowers local authorities to assign redevelopment zones in Syria, and to transfer rights to the property from residents to the state if owners fail to prove ownership within thirty days.¹²² The law sets out onerous conditions to register property and prove ownership, including the need to obtain clearance from the security services. Although the law sets out a scheme for compensation and provides for alternative housing, the government's prior practices under Decree 66 suggest that such compensation will likely fail to materialize.¹²³ While in November 2018 the law was amended to extend the period for proving ownership to one year, and allow for the right to appeal, concerns remain over due process, adequate notice and compensation as well as with the provision of alternative housing.¹²⁴

Human Rights Watch also found that the Syrian government is unlawfully preventing displaced residents from former anti-government-held areas from returning to their properties, which may amount to forced displacement.¹²⁵ Human Rights Watch spoke to seven Syrians who had attempted to return to their homes in Darayya and Qaboun, or whose immediate relatives attempted to return in May and July 2018. Residents said that they or their relatives were unable to access their residential or commercial properties. In Darayya, they said, the local authorities imposed town-wide restrictions on access, and in Qaboun, they said, the government either had restricted access to their neighborhoods or had demolished their property. Both Darayya and Qaboun have been announced as part of redevelopment zones.

Many of the corporations that have expressed interest in reconstruction in Syria are construction, cement, or rubble-removing companies.¹²⁶

¹²² Ibid.

¹²³ Ibid.

¹²⁴ Sara Kayyali, "Protecting Syrian Property Rights," commentary, Human Rights Watch Dispatch, October 19, 2018, <https://www.hrw.org/news/2018/10/19/protecting-syrian-property-rights>.

¹²⁵ "Syria: Residents Blocked from Returning," Human Rights Watch news release, October 16, 2018, <https://www.hrw.org/news/2018/10/16/syria-residents-blocked-returning>.

¹²⁶ Database of corporations and businesses that expressed interest in investing in Syria on file with Human Rights Watch.

Significant involvement in unlawful demolitions, or the removal and rebuilding of residences or commercial properties unlawfully seized by the government may amount to complicity in violations of the right to property or a home, or even the crime of forced displacement.

Decree 63 of the Counterterrorism Law

Human Rights Watch has also documented clear cases in which Decree 63 has also been used to unlawfully strip of their property residents perceived to be opponents of the government. After the town of Yabroud was retaken by the Syrian government in March 2014, Human Rights Watch documented the government's illegal confiscation of residents' personal and commercial property under Decree 63.¹²⁷ In the same town, security services also arbitrarily arrested and detained individuals perceived to be in opposition to the government.¹²⁸ These confiscation and detention practices, according to former residents and relatives of residents, were widespread and residents had no recourse to appeal.¹²⁹

In light of these illegal confiscations and the UN Development Programme's (UNDP) ongoing operations in Syria, on April 15, 2019, Human Rights Watch wrote to UNDP to ask how they ensure that property it is rehabilitating is not unlawfully confiscated, and that residents who have been dispossessed have been adequately compensated. Human Rights Watch also wrote to inquire about challenges, including access, and undertaking human rights-based due diligence assessments.

In a response received on May 17, UNDP told Human Rights Watch that they work only on projects after ascertaining that "individual property rights/titles have not changed since before the start of the conflict and ensure legal documents of property ownership are presented by individuals." UNDP said that their projects for infrastructure and rehabilitation adhere squarely to restoration of services/property that existed prior to the crisis and thus preclude any expropriation of the land during the crisis. It also noted that the rate for access approvals has increased to 70 percent in 2018, and indicated that the existence of UNDP field offices has helped with increased access. The measures described

¹²⁷ Law Enforcement Authorities, Legislative Decree No. 63 of 2012, <http://parliament.gov.sy/arabic/index.php?node=5576&cat=16218&> (accessed May 22, 2019).

¹²⁸ Human Rights Watch interview with two former Yabroud residents, Gaziantep, December 2017.

¹²⁹ Ibid.

by UNDP in the letter reflect an understanding of the pitfalls of rehabilitation, but such measures fail to respond to risk that arises from the destruction of land registries, the obstacles that Syrians face in obtaining property documents, and the new and abusive property registration process under Law 10.

On human rights compliance, the letter indicated that “mindful of the possibility of Human Rights violations and trying to take every possible measure to avoid contributing to these with our interventions,” and that the UNDP conducts a Protection Risk Analysis with similar risks to the ones mentioned in the original letter from Human Rights Watch. It is unclear what the content of the PRA is, and whether it is implemented across all activities. Human Rights Watch was unable to assess whether mitigation efforts are sufficient.

Decree 66

In other cases, the government has violated residents’ human rights through redevelopment projects under Decree 66, including with the involvement of private investors (see section Potential Rights Abusers as Partners in Reconstruction Projects). For example, the Marota City has a redevelopment project under Syrian Decree 66.¹³⁰ After the government approved the project, it unlawfully dispossessed residents of their property, and failed to provide them with adequate compensation or alternative housing.¹³¹ Instead, the government provided private and private-public investors with the opportunity to make development bids, and acquire rights to the property. In January 2019, the European Union sanctioned 11 businessmen, including for their involvement in the Marota City project.¹³²

Blocking Returns to Areas Under Reconstruction

While the Syria government has been actively soliciting support for reconstruction projects, and in some cases advocating for displaced residents to return to areas that have

¹³⁰ Joseph Daher, “Decree 66 and the Impact of its National Expansion,” post to SyriaSource, Atlantic Council, March 7, 2018, <https://www.atlanticcouncil.org/blogs/syriasource/decreed-66-and-the-impact-of-its-national-expansion> (accessed May 22, 2019).

¹³¹ Nour Samaha, “Elites, War Profiteers Take Aim at Syria’s Economic Future,” SyriaDeeply, September 18, 2017, <https://www.newsdeeply.com/syria/articles/2017/09/18/long-read-elites-war-profiteers-take-aim-at-syrias-economic-future> (accessed May 22, 2019).

¹³² Sune Engel Rasmussen, “EU Sanctions Leading Syrian Businessman,” *Washington Post*, January 21, 2019, <https://www.wsj.com/articles/eu-sanctions-leading-syrian-businessman-11548098347> (accessed May 22, 2019).

come back under government control, the government is arbitrarily restricting access to residents from areas they identify as being anti-government, undermining their ability to benefit from reconstruction and stripping them of their property rights.¹³³

In October 2018, Human Rights Watch documented that the government had arbitrarily blocked access for residents in Darayya and Qaboun, two towns in Damascus Countryside governorate.¹³⁴ Research by a coalition of NGOs concerned with returns shows that the Syrian government through its intelligence branches and armed forces have also restricted access for returnees to other areas that the Syrian-Russian military alliance had retaken, including al-Qussayr in Homs governorate, Wadi Barada, parts of Douma, and Hamouriyeh in Eastern Ghouta, among others.¹³⁵ In none of these cases had the government provided an explanation as to why access to these areas was restricted. Absent a proportional reason for restricting access, the government is violating residents' right to freedom of movement and to return to their homes through such restrictions.

Despite this, when the government permits them to do so, humanitarian organizations and UN agencies are carrying out infrastructure rehabilitation and humanitarian projects in areas where the government is blocking residents from going home. In one case, tender notices posted by the UN Development Programme show that UNDP intends to build the department of cadastral affairs in al-Qussayr city, Homs.¹³⁶ Al-Qussayr was home to around 30,000 people before the conflict, and was retaken by the Syrian government in 2013. Since then, reportedly hundreds of displaced persons from al-Qussayr have attempted to return, but state authorities have blocked them from returning, effectively stripping them of their property rights.¹³⁷ Human Rights Watch interviewed three people who attempted return, or whose relatives attempted return, only to be physically banned from entering or denied security clearance by the intelligence branches.¹³⁸ Residents whom Human Rights Watch spoke to said the government did not provide a clear reason why the area was off-limits. One said that his relative attempted to return to al-Qussayr, was told he could, and

¹³³ "Syria: Residents Blocked from Returning," Human Rights Watch news release.

¹³⁴ Ibid.

¹³⁵ Human Rights Watch interviews with three former residents of al-Qussayr, January 2019.

¹³⁶ Screenshot of tenders on file with Human Rights Watch.

¹³⁷ Unpublished report from a coalition of NGOs on returns (title and date withheld). Used for private advocacy purposes.

¹³⁸ Human Rights Watch interviews with three former residents of al-Qussayr, January 2019.

then was not allowed by the authorities to enter his area of origin.¹³⁹ Instead, he and his family were relocated to villages around al-Qussayr. Another community leader outside of Syria told a grassroots organization, that the people with whom he communicated inside Homs told him that members of Hezbollah had occupied most of their houses, and that given its proximity to the Lebanese border, they would be unable to return.¹⁴⁰

Human Rights Watch wrote to UNDP on April 15, 2019 and UNDP responded on May 17 indicating that they had issued these tenders on the basis of a Service Legal Agreement with UN-Habitat, which manages the project.

Human Rights Watch wrote to UN-Habitat on May 20, 2019 seeking a response to the tender. UN-Habitat's deputy country representative told Human Rights Watch that the tender is for a temporary installment rather than a permanent structure, and that UN-Habitat follows 2016 environmental assessment guidelines in selecting projects and conducting due diligence. He shared the environmental assessment with Human Rights Watch, but indicated they would be unable to share the due diligence assessments that they undertake. The environmental assessment includes a section on forced displacement and resettlement, looking into precautionary steps that UN-Habitat can take before undertaking a project and requiring them to "avoid forced evictions;" and "avoid or minimize physical and economic displacement of communities," including by providing compensation and alternative housing. It requires that UN-Habitat staff undertake an assessment of the level of risk associated with each project, and accordingly adopt mitigation standards. The ESSS also emphasizes stakeholder engagement and consultations. It does not however identify how engagement would deal with high-risk situations where beneficiaries are monitored, can be retaliated against, and may not be able to provide an honest and comprehensive accounting of their perspective. The assessment also does not appear to address steps or considerations that UN-Habitat should take, if it is implementing a project in an area where human rights abuses are being undertaken by the state.

¹³⁹ Human Rights Watch interviews with a former resident of al-Qussayr, January 2019.

¹⁴⁰ Transcripts of interviews with three al-Qussayr residents for the report by a coalition of NGOs.

Potential Rights Abusers as Partners in Reconstruction Projects

In addition to running the risk of furthering rights abuse through discriminatory or restrictive reconstruction projects, firms, investors, and agencies undertaking reconstruction projects in Syria risk partnering with an entity under sanctions or known to commit human rights abuses.

Since before the conflict, high-ranking Syrian government officials have maintained financial and ownership stakes in the telecommunication, construction, oil/energy, and other business sectors in Syria.¹⁴¹ In many cases, these individuals have a de facto monopoly over the sector. Business elites are linked to the government through a system of mutual benefit in which the government relies on them to circumvent sanctions, stimulate economic activity, and provide financial backing for the state.¹⁴² In return, the government facilitates their ability to conduct business and monopolize certain sectors of the economy.¹⁴³ These business elites, who are close to the government, are also known to fund and support abusive entities, including the National Defense Militias, and to invest in projects that facilitate the abuse of civilians' property rights and right to adequate housing.¹⁴⁴

For example, the European Union imposed sanctions on a businessman in January 2019 for his involvement in a luxury development that benefits from the expropriation of land from displaced residents without provision of adequate compensation, alternative housing, or due process, among other things.¹⁴⁵

Some Syrian business people are involved in funding abusive actors that are part of or linked to the state apparatus. For example, several businessmen are known to have

¹⁴¹ Kheder Khaddour, "Consumed by War: The End of Aleppo and Northern Syria's Political Order," Friedrich Ebert Stiftung, October 2017, <http://library.fes.de/pdf-files/iez/13783.pdf> (accessed May 22, 2019).

¹⁴² Ibid.

¹⁴³ Ibid.

¹⁴⁴ Alwa Amor and Ruth Sherlock, "How Bashar al-Assad created the feared shabiha militia: an insider speaks," *The Telegraph*, March 23, 2014, <https://www.telegraph.co.uk/news/worldnews/middleeast/syria/10716289/How-Bashar-al-Assad-created-the-feared-shabiha-militia-an-insider-speaks.html> (accessed June 16, 2019); Sune Engel Rasmussen, "EU sanctions leading Syrian businessman," *The Wall Street Journal*, January 21, 2019, <https://www.wsj.com/articles/eu-sanctions-leading-syrian-businessman-11548098347> (accessed June 16, 2019).

¹⁴⁵ Sune Engel Rasmussen, "EU sanctions leading Syrian businessman," *The Wall Street Journal*, January 21, 2019, <https://www.wsj.com/articles/eu-sanctions-leading-syrian-businessman-11548098347> (accessed June 16, 2019).

supported abusive pro-government militias.¹⁴⁶ While the United States, the European Union, and others, have imposed sanctions on Syrian individuals and entities responsible for or complicit in human rights abuses and for “relations with the Assad regime,”¹⁴⁷ analysts of the sanctions and business networks in Syria indicate that many sanctioned individuals have maintained their ability to conduct business outside and inside Syria by creating new, unsanctioned ventures, or by partnering with unsanctioned individuals.¹⁴⁸ Therefore investors who seek to be involved in these sectors may be inadvertently working with or funding an abusive individual or entity.

Many sanctioned individuals and entities are also participating in reconstruction or have expressed their interest in doing so. For example, several Russian companies that have expressed interest in reconstruction in Syria are also sanctioned due to Russia’s actions in Ukraine.¹⁴⁹ Any investment in or cooperation with such companies requires due diligence to ensure that they are not contributing to human rights abuses. An Iranian company undertaking construction in the Damascus Countryside governorate belongs to the Islamic Revolutionary Guard Corps (IRGC), which has recruited children to fight in Syria, and targeted and arbitrarily detained Iranian dual nationals in violation of their due process rights.¹⁵⁰ Another is the development arm of Hezbollah, a group that has also been involved in abuses during the conflict.¹⁵¹ Both the IRGC and Hezbollah are under sanctions imposed by the United States and the United Kingdom. Hezbollah’s armed wing is also

¹⁴⁶ Salwa Amor and Ruth Sherlock, “How Bashar al-Assad created the feared shabiha militia: an insider speaks,” *The Telegraph*, March 23, 2014, <https://www.telegraph.co.uk/news/worldnews/middleeast/syria/10716289/How-Bashar-al-Assad-created-the-feared-shabiha-militia-an-insider-speaks.html> (accessed June 16, 2019).

¹⁴⁷ See e.g., US Department of Treasury, “Syria Sanctions,” undated, <https://www.treasury.gov/resource-center/sanctions/programs/pages/syria.aspx> (accessed May 7, 2019); UK, “Embargoes and sanctions on Syria,” undated, <https://www.gov.uk/guidance/sanctions-on-syria> (accessed May 7, 2019); European Council, “Syria: EU extends sanctions against the regime by one year,” press release, May 28, 2018, <https://www.consilium.europa.eu/en/press/press-releases/2018/05/28/syria-eu-extends-sanctions-against-the-regime-by-one-year/> (accessed May 7, 2019).

¹⁴⁸ See e.g., Frederik Obermaier and Bastian Obermayer, “Shell companies: helping Assad’s war,” *Panama Papers*, undated, <https://panamapapers.sueddeutsche.de/articles/570fc0c6a1bb8d3c3495bb47/> (accessed May 22, 2019).

¹⁴⁹ US Department of Treasury, “Ukraine-related Sanctions; Publication of Executive Order 13662 Sectoral Sanctions Identifications List,” July 2016, <https://www.treasury.gov/resource-center/sanctions/OFAC-Enforcement/Pages/20140716.aspx> (accessed May 22, 2019).

¹⁵⁰ “Iran: Targeting of Dual Citizens, Foreigners,” Human Rights Watch news release, September 26, 2018, <https://www.hrw.org/news/2018/09/26/iran-targeting-dual-citizens-foreigners>.

¹⁵¹ Database of corporations and businesses that expressed interest in investing in Syria on file with Human Rights Watch.

proscribed by the European Union, although the European Union recognizes its political wing as a legitimate actor in Lebanon.

Reconstructing Government Infrastructure Implicated in Abuse

Reconstruction projects related to the building and running of prison systems, judicial courthouses, and other law enforcement entities, also raise human rights concerns. These are all sectors where human rights violations are rampant and ongoing. Human Rights Watch and others have extensively documented abusive practices by the Syrian intelligence branches, including mistreatment, torture, arbitrary detentions, and extrajudicial execution.¹⁵² The Syrian judicial system, including the Counterterrorism court, is known for lack of respect for due process resulting in arbitrary detention.¹⁵³ Inside detention centers, Human Rights Watch has documented widespread and systemic torture, deteriorating humanitarian conditions, and extrajudicial killings of detainees. The Syrian government has made no showing that these entities have been held accountable, or reformed, or that they have ceased their abusive practices .

Businesses, investors, and others have a responsibility to ensure they do not contribute to human rights abuses through their business relationships. As part of this responsibility, they are expected to conduct due diligence to identify any risks that their products or service may contribute to an abuse. Constructing prisons where widespread torture or other abuses have been documented, or even providing cement for such prisons, when such abuse is likely to recur, may well contravene these responsibilities. As is the case with providing computers and other devices, helping build or develop courts where serious violations are known to occur.

¹⁵² Human Rights Watch, *Torture Archipelago: Arbitrary Arrests, Torture, and Enforced Disappearances in Syria's Underground Prisons since March 2011* (New York: Human Rights Watch, 2012), <https://www.hrw.org/report/2012/07/03/torture-archipelago/arbitrary-arrests-torture-and-enforced-disappearances-syrias>; Human Rights Watch, *If the Dead Could Speak: Mass Deaths and Torture in Syria's Detention Facilities*, (New York: Human Rights Watch, 2015), <https://www.hrw.org/report/2015/12/16/if-dead-could-speak/mass-deaths-and-torture-syrias-detention-facilities>.

¹⁵³ "Syria: Counterterrorism Court Used to Stifle Dissent," Human Rights Watch news release, June 25, 2013, <https://www.hrw.org/news/2013/06/25/syria-counterterrorism-court-used-stifle-dissent>.

Principles and Legal Standards

Human Rights and Humanitarian Legal Standards Relating to Humanitarian Aid Provision

Syria is under the obligation to respect, fulfill, and promote the right to an “adequate standard of living,” which includes a right to housing, food, and health as enshrined in the International Covenant on Economic, Social and Cultural Rights (ICESCR). Human rights law also prohibits discrimination on the grounds of race, color, sex, language, religion, political or other opinion, national or social origin, property, birth, or “other status.”

Syria is under a duty to progressively realize these rights; so even recognizing that limited resources and capacity may mean that these rights are realized over time, it still violates Syria’s core obligations to fulfill people’s needs in a discriminatory manner or to impose unnecessary barriers on the delivery of aid or the pursuit of development projects. The policies and practices put in place by the Syrian government have denied humanitarians the ability to promote and advance equitable distribution of aid, and to respond to the populations’ needs according to those needs rather than the government’s sense of their political loyalty or its quest for funding opportunities that circumvent sanctions. Under international humanitarian law, all parties to an armed conflict, government forces, government-backed militias, and rebel groups alike, also have duties with regards to humanitarian aid and assistance. They must allow and facilitate rapid and unimpeded passage of impartial humanitarian assistance for civilians in need.¹⁵⁴ Humanitarian relief agencies cannot in practice function without the express or implied consent of the warring factions, and parties cannot refuse to provide consent on arbitrary grounds.¹⁵⁵

¹⁵⁴ See International Committee of the Red Cross, Customary International Law Database, Rule 55, https://ihl-databases.icrc.org/customary-ihl/eng/docs/v2_rul_rule55_sectiona (accessed March 25, 2019).

¹⁵⁵ Ibid.

Human Rights and Humanitarian Principles Relating to Humanitarian Aid Provision

There are specific humanitarian principles that govern the provision or distribution of aid. The four humanitarian principles that form the foundation of all humanitarian action, and to which all humanitarian agencies, including the United Nations Office for the Coordination of Humanitarian Affairs (OCHA), the International Committee of the Red Cross (ICRC), the Office of the UN High Commissioner for Refugees' (UNHCR) and others, have committed are humanity, neutrality, impartiality, and independence.¹⁵⁶ In particular, international humanitarian principles call for aid to be delivered impartially to those most in need, without any distinction or discrimination. This means that an international humanitarian agency should not deliver aid in a manner that promotes or advances discrimination on prohibited grounds – including discrimination on the basis of political opinion, ethnicity, or religious thought among others.

In October 2017, in recognition of the difficult operating environment that Syria poses, the UN Department of Political Affairs and the UN Development Programme led in the development of parameters and principles that should apply for all UN actors operating in Syria. Among the principles, UN actors operating in Syria are required to work directly with communities and households regardless of zones of influence; carefully consider the human rights and protection implications, especially as to where and how assistance is provided; and must not assist parties who have allegedly committed war crimes or crimes against humanity.¹⁵⁷ The principles state that UN assistance shall be determined consciously and explicitly without prejudice to the goals of accountability for serious human rights violations.¹⁵⁸ These principles have been approved by the Secretary-General. Despite the existence of these guidelines, the reality of operating in Syria shows that more could be done to apply these principles, and further that the methods and practices adopted by humanitarian organizations at the insistence of the Syrian government together restrict the ability to protect the human rights of the Syrian population.

¹⁵⁶ United Nations OCHA, "Humanitarian Principles," June 2012, https://www.unocha.org/sites/dms/Documents/OOM-humanitarianprinciples_eng_June12.pdf (accessed May 22, 2019).

¹⁵⁷ UN, Parameters and Principles of UN Assistance in Syria, August 2018, on file with Human Rights Watch.

¹⁵⁸ Ibid.

Human Rights Legal Standards and Principles Relating to Businesses

While states hold the primary obligation to respect, protect, and fulfill human rights, businesses and investors also have a responsibility to ensure that their activities don't contribute to human rights abuses or violations of international humanitarian law. The UN Guiding Principles on Business and Human Rights, unanimously endorsed by the UN Human Rights Council in 2011, sets out a framework for responsible business that has been widely accepted by states, corporate actors, and individuals.¹⁵⁹ These principles expect companies to conduct due diligence to identify and address any risks that their activities may contribute to abuses throughout their business relationships.¹⁶⁰ Businesses have a heightened responsibility to conduct due diligence and operate transparently in conflict situations, such as in Syria. If a potential abuse is outside their direct control to mitigate or avoid, the Guiding Principles call on businesses to use their leverage to achieve that goal or avoid those activities entirely. Investments in sectors where ongoing human rights abuses are so fundamental or widespread that businesses cannot avoid contributing to them—for example, building, buying, and selling homes on land seized in violation of owners' rights or providing support to local authorities or state organs that have systematically mistreated or tortured individuals—runs afoul of businesses' human rights responsibilities.¹⁶¹

Companies can be implicated in abuse carried out by state organs or authorities under certain circumstances, for example, if the company has requested or benefited from the abusive action, or has provided financial or logistical support. It can also be implicated in abuse by providing information about the whereabouts of people who were subsequently subject to gross human rights abuses, or by providing the surveillance equipment for the government to identify or apprehend such people.¹⁶²

¹⁵⁹ Office of the High Commissioner on Human Rights (OHCHR), "UN Guiding Principles on Business and Human Rights," 2011, https://www.ohchr.org/documents/publications/GuidingprinciplesBusinessshr_eN.pdf (last accessed May 7, 2019).

¹⁶⁰ Ibid.

¹⁶¹ Ibid.

¹⁶² International Commission of Jurists, "Corporate Complicity and Legal Accountability, Report of the International Commission of Jurists Expert Legal Panel on Corporate complicity in International Crimes," June 2012, <https://www.icj.org/report-of-the-international-commission-of-jurists-expert-legal-panel-on-corporate-complicity-in-international-crimes/> (accessed May 7, 2019).

The UN Guiding Principles for Business and Human Rights calls on companies to “treat the risk of causing or contributing to gross human rights abuses as a legal compliance,” and notes that companies that are implicated in gross human rights abuses, can be subject to either criminal or civil liability under several jurisdictions.¹⁶³

The commentary to Principle 17 of the UN Guiding Principles on Business and Human Rights notes that “most national jurisdictions prohibit complicity in the commission of a crime, and a number allow for criminal liability of business” as well as allowing civil actions based on a company’s contribution to a harm.¹⁶⁴ In the international context, the same commentary notes that “the weight of international criminal law jurisprudence indicates that the relevant standard for aiding and abetting is knowingly providing practical assistance or encouragement that has a substantial effect on the commission of a crime.”

One example that appears to have widened risks of complicity in crimes against humanity is the Lafarge case. On June 28, 2018, a French court made a landmark decision indicting the multinational company Lafarge on charges of complicity in crimes against humanity, financing of a terrorist enterprise, and endangerment of people's lives. This case presents a precedent of holding a parent company complicit in crimes against humanity. The complaint alleged that Lafarge may have acted as an accomplice to crimes against humanity, partly because it financed the Islamic State (also known as ISIS) in various ways, including by purchasing commodities like oil and pozzolan from ISIS, paying fees for passes, and selling cement, thereby empowering ISIS to commit massive crimes at the time in Syria.¹⁶⁵

¹⁶³ See further the case law of the International Criminal Tribunal for the former Yugoslavia (ICTY) and International Criminal Tribunal for Rwanda

(ICTR), the International Law Commission (ILC) Draft Code, and group crimes under article 25 (3) (d) of the International Criminal Court (ICC) Statute

¹⁶⁴ OHCHR, “UN Guiding Principles on Business and Human Rights.”

¹⁶⁵ European Center for Constitutional and Human Rights, “Landmark Decision in Lafarge Case,” press release, June 28, 2018, <https://www.ecchr.eu/en/case/lafarge-in-syria-accusations-of-complicity-in-grave-human-rights-violations/> (accessed May 21, 2019).

Recommendations

To Humanitarian Organizations and United Nations Humanitarian Agencies Operating in Syria

- Ensure programming is conducted based on the duty to meet the most urgent needs, and with the purpose of protecting and advancing the basic rights of all individuals, including the right to food, water, and health, without discrimination and with full transparency in response to the most urgent needs rather than to what the government might permit.
- Ensure that assistance does not advance structural inequality between residents in areas that used to be held by anti-government armed groups and those living in areas that remained under government control.
 - Prioritize negotiating for underserved areas, and where the most urgent unfulfilled basic needs to meet basic rights exist.
 - Conduct detailed due diligence, with a focus on identifying human rights concerns associated with the implementation of a project, and mitigating risks arising from it.
 - Make available the criteria for assessment of all projects and include human rights benchmarks and criteria to ensure that no project contributes to rights violations, that any ongoing project found to contribute to human rights violations be stopped, and that projects that can alleviate or remedy rights abuses can go ahead.
 - Be transparent, reporting regularly and with sufficient details, about obstacles facing full implementation of desired programming, including lack of permission to access specific areas; diversion of aid; lack of funding; and unavailability of local partners that meet the standards of humanitarian work.
- Ensure that as part of any humanitarian programming in Syria, there is an independent protection and monitoring mechanism through which organizations are able to monitor and report on human rights violations that beneficiaries face, or in the alternative, expand existing humanitarian programming to enable

humanitarian organizations to capture and report on human rights concerns and protection needs.

- Where projects involve removal of rubble, building residential or commercial structures, or providing supplies including cement or tractors for them, conduct due diligence. This should include interviewing affected communities and consulting land and cadastral records, where available and verified to have been true, and only as a secondary option for engaging affected communities, to ensure that sites of operations are not on illegally appropriated land, and that the owners have provided their permission for the use of the land, and have received alternative housing and/or adequate compensation if they had been evicted by the government.
- Conduct due diligence to ensure that local partners, and their implementing partners, are not funded by or supporting entities responsible for human rights abuses, and that they are transparent, independent, and impartial.
 - Improve processes for conducting due diligence to vet secondary partners, and maintain regular checks on local partners.
 - Where there is evidence of partner involvement in serious human rights abuses, find an alternative. Where no alternative is available, the agency or UN should implement the project themselves. At a minimum insist on accompanying partners in project implementation to ensure that the project is implemented as planned, and inform donors of risk for greater oversight.
- Ensure that effective local partners are empowered and protected, in order to be able to carry out programming fully without interference.
- Adopt duty of care standards that are sufficient to protect local partners from retaliation.
- Revise public reporting in the UN Office for the Coordination of Humanitarian Affairs (OCHA), the Financial tracking Services, and donor portals to ensure that sufficient details on location, project, and partners are available to assess whether the scale of programming matches the number of people in need.
- Support donor states in operationalizing a clearinghouse mechanism to implement standardized criteria that ensure compliance with human rights and humanitarian principles, by participating in a technical secretariat that would advise and support the mechanism.

To Donors and Donor States

- Operationalize a clearinghouse mechanism to implement standardized criteria that ensure compliance with human rights and humanitarian principles, and conduct due diligence over aid operations in Syria. The clearinghouse, or screening, mechanism should be comprised of a committee of major donor states and representatives from the United Nations and supported and advised by a technical secretariat that is chaired by a major donor country but also made up of representatives from international humanitarian organizations, UN agencies, and UN headquarters, who do not have decision-making powers. It should regularly consult international human rights organizations, allow them to have an observer position, and ask for their assessments of projects when screening them.
- Create a funding consortium for humanitarian, reconstruction, recovery, and resilience programming in Syria to ensure that all humanitarian organizations operating from Damascus adopt the criteria for programming adopted by the clearinghouse mechanism, including insistence on independent and full needs assessments; maintaining confidentiality of beneficiary lists; and insisting on full, unimpeded, and regular access to all areas.
- Insist on more transparency from humanitarian organizations regarding the criteria they are using for their projects, how regularly they gain access independent of local partners, and the challenges they face in implementing projects.
- Insist that the Syrian government give staff of UN agencies and humanitarian organizations direct and unimpeded access to all areas of Syria.
- Insist that the Syrian government give staff of UN agencies and humanitarian organizations direct and unimpeded access to all areas of Syria. Be more transparent in reporting on their funding, including adding granularity regarding programming served, entities and areas supported – given the disparity in treatment at the level of neighborhoods in some cases, it is necessary that this level of granularity is reflected in reporting to enable comparisons. Revise public reporting to ensure that sufficient details on location, project, and partners are available to assess whether the scale of programming matches the number of people in need.
- Insist on a human-rights based approach to humanitarian and development aid in Syria. This includes empowering the entities they fund to monitor and report back

on human rights concerns, and devise programming in a way that advances human rights compliance in recognition of major ongoing abuses.

- Ensure that a rights-based equality analysis accompanies any project proposal submitted, reflecting how the project will operate within the larger socio-political and economic dynamics of the conflict with a view to detecting whether the project will further structural inequalities.
- Ensure that legal frameworks for reconstruction and urban planning guarantee the protection of rights to property, to a home and of displaced people to return to their homes, due process, and adequate compensation for affected communities.
- Check that the entity being funded, or its implementing partner, is not under sanctions or owned by a sanctioned individual or entity.
- Conduct due diligence including by referring to lists of sanctions, engaging affected communities and consulting civil society and economic experts on businesses and their affiliations.

To Companies and Investors Participating in Reconstruction

- Do not provide funding or services where there is a real risk that they would contribute to serious human rights abuses.
- As a starting point, consult with Syrian and international human rights and monitoring organizations to gain an understanding of the human rights landscape in Syria, both before and during the conflict.
- Ensure that projects are based on independent assessments that are not conducted by entities affiliated with the Syrian government.
- Conduct due diligence to ensure that funds do not contribute to abusive projects.
- Where there would be investment or engagement in a sector involved in serious human rights abuses, refrain from providing funding or support until the violations cease, the sector is reformed, and compensation is provided to victims. Make human rights concerns and conditions for moving forward clear to the authorities.
- Where the projects or investment involve removal of rubble, building residential or commercial structures, or even providing supplies including cement or tractors for these, conduct due diligence assessments. This should include interviewing affected communities to ensure that sites of operations are not on illegally appropriated land, and that the original owners have provided their permission for

- the use of the land, and have received alternative housing and/or adequate compensation if they had been evicted by the government.
- Check that the entity being funded is not under sanctions for human rights abuses, or affiliated with an individual or entity that is under sanctions for human rights abuses.
 - Insist on full disclosure of distribution networks and associated conflict of interest by local partner entities, including their shareholders, owners, and other companies. These networks can often be complicated, and transparency is an important first step to deconstructing it and ensuring that businesses are not accidentally liable for facilitating commission of human rights violations.

To the United Nations

- Maintain UN agencies' ability to operate cross-border as authorized by UNSC resolution 2165, and continue to provide aid to hard-to-reach areas through those hubs. Do not consolidate humanitarian operations through Damascus so long as restrictions on local partners; independent assessments; full and regular access; and human rights monitoring are still in place.
- Review sanctions by the EU, US and others, and ensure that you adopt and avoid partnering with entities, local partners, or individuals who have been sanctioned for their repression of the civilian population or human rights abuses.
- Support the operationalization of a clearinghouse mechanism to implement standardized criteria that ensure compliance with human rights and humanitarian principles, and conduct due diligence over aid operations in Syria. The clearinghouse, or screening, mechanism should be comprised of a committee of major donor states and representatives from the United Nations and supported and advised by a technical secretariat that is chaired by a major donor country but also made up of representatives from international humanitarian organizations, UN agencies, and UN headquarters. It should regularly consult international human rights organizations, allow them to have an observer position, and ask for their assessments of projects when screening them.
- Given the difficulties in protection programming, ensure that all agencies support and advance compliance with human rights in Syria, by calling out and reporting on major human rights concerns, or at least by being transparent about challenges in

fulfilling a protection mandate. Do not give false reassurances of safety, access, or capacity where the full picture does not exist.

To the Syrian Government

- Allow unimpeded humanitarian access to all areas under its control, including areas that were previously held by anti-government groups.
- Allow UN agencies and humanitarian organizations, including OHCHR, to conduct independent and comprehensive pre- and post-programming assessments.
- Ensure that legal frameworks for investment, property, and rubble removal are amended to respect and further the rights of affected individuals, families, and communities.
- Prohibit arbitrary detention, torture, and mistreatment in detention facilities and by security service actors; release all people arbitrarily detained; and provide an accounting of all people who died in detention and the circumstances of their death.
- Vet and reform the security service sector and hold accountable individuals who are responsible for violations.

Acknowledgements

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Appendix I: Letter to the United Nations Development Programme from Human Rights Watch

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April 15, 2019

David Akopyan
United Nations Development Programme
Syria Country Director

Dear Mr. Akopyan,

We write to request information in connection with research that Human Rights Watch has carried out with regards to the United Nations Development Programme's (UNDP) engagement in humanitarian and development activities in areas under the control of the government in the Syrian Arab Republic. This research is part of a broader report on the human rights implications of policies governing humanitarian aid, early recovery and reconstruction in government-held Syria, which we plan to publish in June 2019.

In the interests of thorough and objective reporting, we would appreciate it if you could provide us with a reply by May 15th, 2019 so that we can reflect your views and comments in our forthcoming report.

Human Rights Watch is an independent, nongovernmental organization that monitors and reports on human rights in ninety countries around the world.

Our research indicates that UNDP has issued tenders for the redevelopment of a community development center in Yabroud, where Human Rights Watch has documented the unlawful confiscation of commercial and residential buildings belonging to former residents affiliated with the opposition under Decree 63 of the Syrian Counterterrorism Law of 2012, in contravention of international human rights and humanitarian law.

Our research also indicates that UNDP has issued tenders for the development of a cadastral building in al-Qussayr. Al-Qussayr was home to around 30,000 people before the conflict, and was re-taken by the Syrian government in 2013. Since then, reportedly hundreds of displaced persons from al-Qussayr have attempted to return, but the government has blocked them from returning, effectively stripping them of their property rights. Residents whom Human Rights Watch spoke to said the government did not provide a clear reason why the area was off-limits.

In October 2017, in recognition of the difficult operating environment that Syria poses, the UN Department of Political Affairs and UNDP led in the development of parameters and principles that should apply for all UN actors operating in Syria. Among the principles, UN actors operating in Syria are required to work directly with communities and households regardless of zones of influence; carefully consider the human rights and protection implications, especially as to where and how assistance is provided; and must not assist parties who have allegedly committed war crimes or crimes against humanity. The principles state that UN assistance shall be determined consciously and explicitly without prejudice to the goals of accountability for serious human rights violations.

Based on those considerations, we would appreciate receiving your responses to the following questions:

1. Can you kindly confirm whether UNDP is issuing tenders for a community development center in Yabroud and the cadastral building in al-Qussayr?
2. Did UNDP do any due diligence to ascertain whether human rights violations were committed with regards to the areas where it intends to implement projects? If so, can you please provide that assessment or provide details about it?
3. Does UNDP conduct due diligence to determine the legal status of land it develops projects on? If so, what steps are undertaken?
4. Does UNDP undertake due diligence to ascertain whether property it might use has been expropriated? If so, can you provide details of that analysis?

5. In the case of expropriations, does UNDP establish contact with affected communities and dispossessed residents to ascertain whether they have been adequately compensated and provided with alternative housing?
6. What criteria does UNDP use to determine which projects to undertake in government-held Syria and where?
7. Does UNDP conduct in-person field assessments before implementing projects? Please provide relevant details.
8. Does UNDP have full and regular access to areas where it is or intends to implement projects? To the extent that access is restricted, how does UNDP assess local needs and monitor whether intended beneficiaries are benefitting from the project?
9. Does UNDP conduct a conflict-sensitivity assessment before implementing projects? Please provide us with relevant details.
10. What are the challenges that UNDP faces in implementing projects in government-held Syria? Specifically, what does UNDP see as the main obstacles to implementing projects in government-held Syria in a manner that respects the rights of the beneficiary population?
11. Who are UNDP's main local partners in Syria? How does UNDP ensure that it does not partner with local actors or entities that are known to be or have been sanctioned for human rights violations and repression of civilian populations?

In addition to responses to the above, we would welcome receiving any additional information you are able to provide regarding ensuring compliance with humanitarian and human rights principles in your operations in Syria. We would also welcome an opportunity to discuss these issues with you or other UNDP representatives. If you would like to arrange such a discussion, please contact my colleague Sara Kayyali at [REDACTED].

Thank you for your kind assistance in this matter.

Lama Fakh
Deputy Director
Middle East and North Africa
Human Rights Watch

Appendix II: Letter to Human Rights Watch from the United Nations Development Programme

United Nations Development Programme

برنامج الأمم المتحدة الإنمائي



*Empowered lives.
Resilient nations.*

Lama Fakih
Deputy Director
Middle East and North Africa
Human Rights Watch

Subject: Letter to Mr. David Akopyan from Human Rights Watch - April 16, 2019

17 May 2019

Dear Ms. Fakih,

It is a pleasure hearing from Human Right Watch and I wish to express our appreciation for your interest. We truly value the involvement of civil society organizations in ensuring that the humanitarian values are upheld in response to any crises in the world, and particularly in one of most severe in the 21st century – the Syrian crisis. As you surely understand we are operating under extremely challenging circumstances – enormous needs for millions of people trapped under very unfortunate circumstances after 8 years of very destructive war. Humanitarian needs are many -life saving but also beyond – 11.6 mln in need, 2.1 mln pupils out of schools, millions without basic medical services, in many cities no functioning municipal infrastructure, no electricity, running water and people surviving in half collapsed buildings surrounded by debris and waste.

We view all of the above as an important part of our rights-based and evidence-based development agenda. Expectations are, for some time, that progress on political process will allow to unlock and advance more proactively with recovery of basic services and provide millions with functioning municipal and social infrastructure, and consequently enable them to get some basic level of quality of life. Political process however is moving slowly and it is heart breaking to witness so much of human suffering by innocent men, women and children in my close to 2 years in Syria. I have travelled extensively to most of the regions in Syria and had the opportunity to witness this all myself and while travelling discussed at

length issues with local civil society and many frank conversations with ordinary people – patients at hospitals we help to become functional, parents of schoolchildren attending schools we rehabilitated, beneficiaries of infrastructure that became functional due to our interventions etc.

In every UNDP intervention, decision is based on the needs that derives from UN assessed needs severity scale. When prioritizing we make sure to have extensive consultation with community and we also do our best to encourage participation by the civil society actors in implementation of our activities. We also make sure that we have systems of control, monitoring and oversight and last year we started establishing an oversight unit that together with financial/programme management issues also ensures due diligence on human and property rights, documentation etc.

The above was to provide a context of imperfect working environment with many challenges we operate in, where we are expected to deliver to a sizeable number of people in need, depending on the services that come with our support.

Below are responses to your specific questions that will hopefully address your concerns.

Your letter starts with reference to two specific initiatives:

1. Can you kindly confirm whether UNDP is issuing tenders for a community development enter in Yabroud and the cadastral building in al-Qussayr?

For the Cadastral facility in **Al Qussayr**, UNDP has a Service Legal Agreement (SLA) in place with UN Habitat, similar to the one we have with many other UN agencies, where UNDP acts as an administrative agent providing services to another UN Agency, that does not have formal accreditation in the country. The activity itself is fully managed by UN Habitat. UNDP at the request of the agency has issued tenders for the Cadastral Building in al-Qussayr. Any question on this initiative must be addressed to UN Habitat.

UNDP has done light rehabilitation of part of the Rural Development Center in **Yabroud** like the child care facility and vocational and skills training facility to support the livelihoods of the community members. The two facilities, however, are not yet functional. The Community Development Center has been there since 1987. Center belongs to Ministry for Social affairs and Labor; it is and always was a public property.

2. Did UNDP do any due diligence to ascertain whether human rights violations were committed with regards to the areas where it intends to implement projects? If so, can you please provide that assessment or provide details about it?

Human rights violations are unfortunately happening during protracted and extremely violent conflicts like the Syrian one that span across the entire Syrian territory. We are aware of the work of the various UN and non-UN bodies with the capacity to assess human right issues (OHCHR, HRW, Amnesty, etc.), we are mindful of the possibility of Human Rights violations and trying to take every possible measure to avoid contributing to these with our interventions. UNDP's overall approach is to work under a context sensitive and do-no-harm/do-good approach as an essential part of local level programming. As a result and as explained more extensively below we conduct conflict-sensitive context analysis before proceeding to undertake initiatives and identify our priorities within the annual UN Humanitarian Needs Overview, based on the severity of needs.

Does UNDP conduct due diligence to determine the legal status of land it develops projects on? If so, what steps are undertaken?

UNDP undertakes a due diligence procedure through our field offices which involves checks and crosschecks with UN partners within the framework of the Humanitarian Response Plan, communities/returnee leaders, available records and local authorities. This procedure is widely accepted as a fair and standard “background check” given current conditions in the country, both by the UN, the donors and also National and International NGOs. It should be noted that all the UNDP projects for infrastructure and rehabilitation adhere squarely to restoration of services/property that existed prior to the crisis and thus preclude any expropriation of the land during the crisis.

UNDP also contributes actively to the UN Working Group on Housing, Land and Property (HLP), and we are one of implementors of EU funded HLP joint programme together with other UN/non-UN agencies.

- 3. Does UNDP undertake due diligence to ascertain whether property it might use has been expropriated? If so, can you provide details of that analysis?**
- 4. In the case of expropriations, does UNDP establish contact with affected communities and dispossessed residents to ascertain whether they have been adequately compensated and provided with alternative housing?**

UNDP only works on projects where it has been ascertained that individual property rights/titles have not changed since before the start of the conflict and ensures legal documents of property ownership are presented by individuals. For example, in Maaloula, UNDP delayed some rehabilitation activities which involved private property until the provision of written authorization by the owners. A similar approach was adopted for rehabilitation of shops in the Old Market in Homs. While removing debris in Aleppo, UNDP deliberately avoided private properties and concentrated on plots housing publicly owned infrastructure and prioritized the facilities most critically needed for restoration of access to crucial services, particularly in the eastern side of the city where massive returns of IDPs have happened (estimates are about 450,000 during 2018 alone). Because of the above-mentioned preventive mechanisms, UNDP has not come across a situation of expropriation in the projects it works on.

- 5. What criteria does UNDP use to determine which projects to undertake in government-held Syria and where?**

UNDP activities in Syria are guided by the Humanitarian Needs Overview (HNO), and the consequent Humanitarian Response Plan (HRP) as the basis for priority setting. All sections of the HRP include a mandatory Protection Risk Analysis (PRA) that lists down the risks similar to the ones identified in your letter along with the mitigation measures. The PRA is periodically updated to include additional risks identified during implementation. One of the criteria for selection of a project is based on the Severity Scale as well as security and access. The Severity Scale is based upon objectively assessed needs, the case load and alignment of the identified need with the HRP objectives. As per the UN Charter and as outlined in the Principles and Parameters for UN engagement in Syria, the response should not be subject to political or other considerations that can hamper the principles of Humanity, Neutrality and Impartiality, and should be applied uniformly across the country.

- 6. Does UNDP conduct in-person field assessments before implementing projects? Please provide relevant details.**

Once an area is identified based on the above criteria, UNDP undertakes an analysis/assessment using both its field teams and the Damascus office teams. I personally undertake 1 to 2 field visits each month to project locations, and portfolio and project managers regularly visit project sites at the time of initiating activities and afterwards for monitoring and final acceptance of the work. We face certain challenges since every visit to the regions for UNDP staff from Damascus needs to be approved by MOFA, however the overall rate of approvals for visits in 2018 was about 70%. We have 10 field offices with a number of qualified national staff and they are able to regularly visit project sites and report back. In 2 critical locations (Aleppo and Qamishli) we have placed senior international colleagues to ensure better quality control and oversight. On top of this we have a retainer contract with a monitoring company that provides regular oversight visits and spot checks on progress with beneficiaries and community representatives. Particularly relevant in this process, is the participation of communities targeted in the initiative, in planning, implementing and monitoring the project through local committees.

7. Does UNDP have full and regular access to areas where it is or intends to implement projects?

8. To the extent that access is restricted, how does UNDP assess local needs and monitoring whether intended beneficiaries are benefitting from the project?

UNDP conducts direct field assessments through staff members (see above for more details) and partners, and tries to capture the perspective of wide range of stakeholder before it decides to intervene. UNDP has found the issue of access to locations becoming less of a challenge in the past 12 months, especially to places like Eastern Ghouta, the Southern regions etc. The first 6 months after GoS take over access was difficult, however, it has gradually been improving as military control has given way to a civilian administration. On a number of occasions, a note verbale sent a day prior to trip to MOFA has been approved the same/next day. Again, as highlighted above, very relevant to the regular and sustained access to areas where UNDP is implementing or intends to implement projects, is the extensive network of UNDP Field Offices across the country that also provide regular access for monitoring and evaluation

9. Does UNDP conduct a conflict-sensitivity assessment before implementing projects? Please provide us with relevant details.

UNDP has been the first amongst UN Agencies operating in Syria, to start conducting conflict-sensitive local context analyses (LCAs) since 2016 and has now in-house capacity with dedicated international and national human resources. Conflict-sensitive context analyses are conducted locally at city, locality or governorate level with a specific focus on dividers and connectors amongst communities and on how to approach interventions in specific locations ensuring the highest possible standards, in the given conditions, for implementing foreseen activities within a do-no-harm/do-good policy.

LCAs are conducted by experts through desk reviews, key informant consultations and focus groups; the analyses are living documents, regularly updated in order to capture evolving dynamics on the ground.

The outcomes of the LCAs are used, among other aspects, to inform programming by UNDP inside Syria. Currently, more than 90% of UNDP activities inside Syria, happen in locations where LCAs have been conducted. UNDP is engaged in sharing capacity on LCAs as well as the outcomes of the conducted LCAs with other humanitarian partners and donors, besides other UN agencies active in Syria.

10. What are the challenges that UNDP faces in implementing projects in government-held Syria? Specifically, what does UNDP see as the main obstacles to implementing projects in government-held Syria in a manner that respects the rights of the beneficiary population?

As a general point on our presence and geographic coverage, we are not limited in our programme delivery only to government-held part of Syria. UNDP expanded significantly in areas under the Kurdish Self Administration (approximately half of Raqqah and Deir Ez Zor and 95% of Hassakeh region). In north east it is important to note that a patchwork of authority exists and there is an agreement for country wide implementation of activities, and also informal agreement between authorities in Damascus and SDF for delivery of basic services – schools, hospitals, electricity and water supply etc. Additionally UNDP also maintains a presence in the UN Hub in Gaziantep and also in Amman under the “Whole of Syria” architecture to work with Syrian civil society in North West and other areas outside government control. UNDP leads the Early Recovery coordination and reporting through the “Whole of Syria” framework, as well as also delivers a small scale programme for areas of Greater Idlib out of GoS control. Programmatic delivery in each part has its own peculiar challenges.

11. In the government held parts, despite a relative ease in getting the approvals for field work, access remains a challenge in some cases. There is a complex bureaucratic process of decision making, and in addition to consultations with communities and local administration we need to consult respective line ministries, and the offices of governors. Also Government has tedious approval process for NGOs registration and for project implementation: this often hinders the progress on projects where local NGOs are the implementing partners Who are UNDP’s main local partners in Syria? How does UNDP ensure that it does not partner with local actors or entities that are known to be or have been sanctioned for human rights violations and repression of civilian populations?

UNDP activities are executed through either direct implementation or through partnership with NGOs and FBOs. Some of them operate in one region, while others have broader national reach.

We have a specialised department helping to develop the capacity of those NGOs in project implementation and with some we have some lasting relations for few years. None of the partners are known to have been sanctioned for Human Rights violations. It will be pertinent to mention that some of UNDP donors, particularly the EU member states, also check the implementing partners against EU and US unilateral sanctions on Syria and had never found any partner being included in the list of sanctioned entities.

Though unrelated to the UNDP programmatic activities, it would be interesting to demonstrate the tough dilemmas that we sometimes are faced with, through the following example. All the UN international staff in Damascus live at the Four Seasons Hotel due to safety, security and surveillance considerations. Despite repeated requests and improved security conditions, the government has not yet allowed the international staff to rent private apartments. It so happens that the majority shareholder of the hotel is on the EU sanctions list, though the hotel itself, as a business entity, is not on the sanctions list. UNDP rents 16 rooms at the hotel and despite our desire to do otherwise, have no choice but to deal indirectly with an EU-sanctioned individual. Several EU and European diplomats who visit Syria have also to stay at the Four Seasons.

I hope that the above responses will be found useful by HRW and we remain available for any subsequent dialogue in the spirit of transparency and constructive engagement. I want to assure you that we are mindful of the imperfect conditions and challenges that we operate under and are open to constructive engagement and continued dialogue. We will be delighted to listen more on your perspective and how we can balance the complexity of tasks, the enormity of needs and of the location-specific challenges to provide humanitarian assistance/resilience support throughout the country.

David Akopyan,



UNDP Syria Resident Representative a.i.

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Director*

Appendix III: Letter to the United Nations High Commissioner for Refugees from Human Rights Watch

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April 15, 2019

Sajjad Malik

The United Nations High Commissioner for Refugees Syria Representative

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Abdelaziz Nouaydi

Nabeel Rajab

Dear Mr. Malik,

We write to request information in connection with research that Human Rights Watch has carried out with regards to the office of the United Nations High Commissioner for Refugees (UNHCR)'s engagement in humanitarian and development activities in areas under the control of the government in the Syrian Arab Republic. This research is part of a broader report on the human rights implications of policies governing humanitarian aid, early recovery, and reconstruction in government-held Syria, which we plan to publish in June 2019.

I am writing to seek your response to several questions, set out below. In the interests of thorough and objective reporting, we would appreciate it if you could provide us with a reply by May 15th, 2019 so that we can reflect your views and comments in our forthcoming report.

Human Rights Watch is an independent, nongovernmental organization that monitors and reports on human rights in ninety countries around the world.

Our research indicates that UNHCR is currently partnering with the Ministry of Interior, the Syrian Arab Red Crescent (SARC) and Syria Trust to raise public awareness about civil documentation and registration.

We regard UNHCR's 2018 objective to provide support to civil registration in government-held Syria to "support national counterparts in addressing issues pertaining to civil registration/documentation, as well as Housing, Land, and Property (HLP) rights" as positive in that it recognizes the serious obstacles facing Syrians who have lost their civil documentation.

However, the Ministry of Interior has been implicated in abuses against the Syrian population. It was directly involved in the repression of the civilian population in 2011-2012 and has been sanctioned by the European Union on that basis. The Ministry of Interior, through its intelligence branches, has also blocked internally displaced people from returning to their areas of origin, and refused to provide refugees seeking return with security clearance to return and confiscated their civil documentation and other identification documents.

Our research also indicates that UNHCR faced significant difficulties in early 2019, when Syrian authorities refused to allow UNHCR to distribute tents in al-Hol camp for internally displaced people because they disagreed in negotiations over the role SARC would play.

In October 2017, in recognition of the difficult operating environment that Syria poses, the UN Department of Political Affairs and the United Nations Development Programme led in the development of parameters and principles that should apply for all UN actors operating in Syria. Among the principles, UN actors operating in Syria are required to work directly with communities and households regardless of zones of influence; carefully consider the human rights and protection implications, especially as to where and how assistance is provided; and must not assist parties who have allegedly committed war crimes or crimes against humanity. The principles state that UN assistance shall be determined consciously and explicitly without prejudice to the goals of accountability for serious human rights violations.

Based on those considerations, we would appreciate receiving your responses to the following questions:

Can you kindly confirm whether the incident with regards to the delay in distribution of tents in al-Hol occurred? Please confirm the cause of the delay.

Can you kindly confirm that UNHCR is partnering with the Ministry of Interior to provide guidance and support with regards to civil documentation and housing, land and property rights? Is the partnership based on an MOU? Can you provide a copy of any MOU and further details with regards to the nature of the partnership?

How does UNHCR ensure that the technical and financial assistance it supports does not contribute to sectors or government agencies and or actors that have been sanctioned for or are known to be involved in human rights violations? Please provide relevant details.

Were human rights abuses proliferate? Please provide relevant details.

What criteria does UNHCR use to determine which projects to undertake in government-held Syria?

Does UNHCR establish contact with affected communities to ascertain whether they have been dispossessed of their civil documentation, or unlawfully prevented from accessing their property or areas of origin?

Does UNHCR conduct in-person field assessments and conflict-sensitivity assessments before implementing projects? Please provide relevant details.

Does UNHCR have full and regular access to areas where it does or intends to implement projects? Does it have full access to communities of internally displaced Syrians or returning refugees? To the extent that access is restricted, how does UNHCR assess local needs and monitoring whether intended beneficiaries are benefitting from the project?

What are the challenges that UNHCR faces in implementing projects in government-held Syria? What difficulties does it face in operating with local partners?

What type of protection programming does UNHCR undertake in government-held Syria?

In addition to responses to the above, we would welcome receiving any additional information you are able to provide regarding ensuring compliance with humanitarian and human rights principles in your operations in Syria. We would also welcome an opportunity to discuss these issues with you or other UNHCR representatives. If you would like to arrange such a discussion, please contact my colleague Sara Kayyali at [REDACTED].

Thank you for your kind assistance in this matter.

Lama Fakhri
Deputy Director
Middle East and North Africa
Human Rights Watch

Appendix IV: Letter to Human Rights Watch from the Office of the United Nations High Commissioner for Refugees

UNHCR response to Human Rights Watch letter (to: Sajjad Malik; date: 15 April 2019) requesting information regarding engagement in humanitarian activities in Syria

UNHCR as part of the international humanitarian response and in coordination and partnership with all the UN and international humanitarian agencies working in Syria, continues to provide humanitarian assistance and protection services to the most vulnerable IDPs, host communities, returnees and other crisis-affected populations in all areas of Syria where humanitarian access exists. With respect to IDPs, UNHCR in Syria operates within the framework of the Syria Humanitarian Response Plan (HRP), which was developed and is implemented under the leadership of the UN Resident/Humanitarian Coordinator. The HRP sets out the framework within which the humanitarian community will respond to large-scale humanitarian and protection needs in Syria on the basis of the prioritization undertaken within and across sectors.

There are currently around 11.7 million persons in need of humanitarian assistance inside Syria, including some 6.2 million IDPs, 1.4 million IDP returnees and over 45,000 refugees (over half of whom are residing in camps). An estimated 5 million people are in acute need due to vulnerabilities resulting from displacement, exposure to hostilities and limited access to basic goods and services. The UN estimates there are around 1.16 million persons in hard-to-reach locations.

UNHCR currently has partnership agreements with 33 partners and employs some 520 staff operating from seven offices in Syria (in Damascus, Aleppo, Homs, Qamishli, Tartous and As-Sweida). A significant part of UNHCR's protection and assistance efforts are channeled through 224 Community Centres, Mobile Units and Satellite Centres in 12 Governorates and through 2,849 Syrian community outreach volunteers.

1. Can you kindly confirm whether the incident with regards to the delay in distribution of tents in al-Hol occurred? Please confirm the cause of the delay.

We did not encounter the incident described in your question. The number of people who arrived in Al Hol reached over 50,000 persons just in matter of days, and. As they arrived, without hinderance by any parties, UNHCR released the tents available and mobilized its logistics to move tents available in other location in Syria to Al Hol.

2. Can you kindly confirm that UNHCR is partnering with the Ministry of Interior to provide guidance and support with regards to civil documentation and housing, land and property rights? Is the partnership based on an MOU? Can you provide a copy of any MOU and further details with regards to the nature of the partnership?

UNHCR does not have a formal partnership with the Ministry of Interior and there is no MOU between UNHCR and MOI.

Ultimately, States have the primary responsibility to protect and assist persons within their territories affected by disasters, armed conflicts or violence. Humanitarian action is thereby meant to complement and support States in fulfilling such responsibilities. It should neither undermine nor supplement state responsibility.

The inter-related areas of civil documentation and housing, land and property rights (HLP) are two issues that are often cited by Syrian refugees, IDPs and other affected populations as key areas of concern. This has come out clearly in several assessments and surveys, including the Humanitarian Needs Overviews as well as in refugee returns and intentions surveys and focus group discussions.

Consequently, UNHCR advocates on their behalf and engages extensively with the concerned ministries, including MOI, on these (and other) issues.

3. How does UNHCR ensure that the technical and financial assistance it supports does not contribute to sectors or government agencies and or actors that have been sanctioned for or are known to be involved in human rights violations? Please provide relevant details.

UNHCR's mandate is non-political, humanitarian and social. In all its humanitarian actions, UNHCR is guided by the humanitarian principles of humanity, impartiality, neutrality and independence. These principles, derived from international humanitarian law, have been taken up by the United Nations in General Assembly Resolutions 46/182 and 58/114. It may also be worth noting that the work of UNHCR is also guided by the 2011 UN Human Rights Due Diligence Policy, as applicable.

UNHCR furthermore adheres to other principles, which are internationally recognized and complement so-called principled humanitarianism. The principle of "do no harm," for example, obliges UNHCR to prevent and mitigate any negative impact of its actions on affected populations. Equally important is UNHCR's commitment to a rights-based and community-based approach, which includes efforts to engage and empower persons of concern in decisions that affect their lives.

4. Were human rights abuses proliferate? Please provide relevant details.

While UNHCR does not have a mandate for human rights monitoring, the Office carries out protection-related operational interventions as part of the overall humanitarian response outlined in HRP.

5. What criteria does UNHCR use to determine which projects to undertake in government-held Syria?

As noted, UNHCR adheres inter alia to humanitarian principles of impartiality and neutrality. Consequently, determination of which projects are to be undertaken where are determined based on needs alone. However, other considerations may render parity between different geographical areas challenging, such as security concerns and humanitarian access.

6. Does UNHCR establish contact with affected communities to ascertain whether they have been dispossessed of their civil documentation, or unlawfully prevented from accessing their property or areas of origin?

In neighboring countries where UNHCR is responsible for registration of Syrian refugees, UNHCR records information related to available civil documentation in each household. UNHCR also conducts surveys and assessments regarding the prevalence of civil documentation and HLP documentation – and the status of refugees' property inside Syria – as well as assisting to mitigate obstacles to obtaining such documentation.

Information extrapolated from above sources inform UNHCR advocacy and programming around civil documentation and HLP, inside as well as outside Syria.

Inside Syria, UNHCR and partners are primarily outreaching to affected communities – including on civil documentation and HLP matters – through 224 Community Centres, Mobile Units and Satellite Centres in 12 Governorates and through 2,849 Outreach Volunteers.

7. Does UNHCR conduct in-person field assessments and conflict-sensitivity assessments before implementing projects? Please provide relevant details.

UNHCR and its partners undertake first-hand assessment at field level before initiating any projects. Such assessments are also undertaken within the context of inter-agency response. UNHCR and its partners including UN agencies and international organisations have established feedback mechanism which also provides good information on the needs and gaps in humanitarian including protection interventions.

8. Does UNHCR have full and regular access to areas where it does or intends to implement projects? Does it have full access to communities of internally displaced Syrians or returning refugees? To the extent that access is restricted, how does UNHCR assess local needs and monitor whether intended beneficiaries are benefitting from the project?

As stressed by the UN Secretary-General on numerous occasions, sustained humanitarian access remains critical, with 11.7 million people in need of protection and assistance. As noted in his most recent bi-monthly report on the humanitarian situation in Syria, the Secretary-General held that:

“The provision of humanitarian assistance requires timely, safe, sustained and unimpeded access by the United Nations and all humanitarian partners. The access landscape in the Syrian Arab Republic is complex, with different areas serviced differently and different types of services requiring different operating modalities. Access is critical for principled humanitarian action, which depends notably on an ability to assess needs and to monitor and evaluate impact independently, including by regularly engaging directly with affected people.” (see: S/2019/321, 16 April 2019, para. 28)

Against this backdrop, UNHCR and partners continue to advocate for the removal of humanitarian access restrictions to affected populations as well as streamlining of administrative requirements.

Pending improvements in terms of humanitarian access, UNHCR continues to rely on its community-based protection strategy, implemented primarily through community centres, mobile units, and outreach volunteers to ensure that a maximum of individuals in need are reached. The community centres function as ‘one-stop shops’ offering a wide range of integrated protection-related services and programmes for people of diverse profiles and with diverse needs.

9. What are the challenges that UNHCR faces in implementing projects in government-held Syria? What difficulties does it face in operating with local partners?

UNHCR and the international humanitarian community work closely with local partners for needs assessments and operational activities, as access to IDPs/returnees remains a challenge especially in hard to reach areas. However, the number of available local partners and their capacity to respond in accordance with humanitarian principles to the growing needs requires enhancement. In addition, where government endorsement is needed, there is often a lengthy process, contributing to delays in implementation.

10. What type of protection programming does UNHCR undertake in government-held Syria?

UNHCR continues to provide humanitarian assistance and protection services to the most vulnerable IDPs, host communities, returnees and other crisis-affected populations in all areas of Syria where humanitarian access exists.

In cooperation with international and national NGOs, UNHCR undertakes protection programmes aimed at reducing vulnerabilities and enhancing protection. The UNHCR Protection services provided included assessments, capacity building of UNHCR partners and outreach volunteers, targeted material assistance, socio-economic activities, recreational activities, psychosocial support (PSS), legal aid, SGBV referral and response, child protection activities, vocational training, community-based initiatives as well as awareness raising sessions on various issues, ranging from residency procedures to prevention of SGBV.

UNHCR continues to contribute to the strategic objectives of the Humanitarian Response Plan (HRP) to provide life-saving assistance, mitigate protection risks and respond to protection needs, improve self-reliance, livelihoods and access to basic services, and prepare for the shift towards returns.

UNHCR continues to deliver on these objectives through five key components:

- 1) Provision of emergency life-saving assistance to IDPs, including emergency response to new displacements in North-East Syria (e.g. Al Hol camp), Idlib Governorate as well as through convoys of critical humanitarian assistance to persons in Rukban;
- 2) IDP protection and assistance to support over 6 million IDPs and equally vulnerable host communities;
- 3) Refugee protection and assistance to some 46,000 refugees and asylum seekers who continue to need support;
- 4) Winterization support, with the 2018-2019 winterization support reaching 241,870 households/1,163,494 individuals.
- 5) Preparing for returns and providing community based protection services and assistance support to returnees, mostly IDPs but also spontaneous refugee returnees, through community-based assistance.

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Appendix V: Letter to the Syrian Arab Red Crescent from Human Rights Watch

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Eng. Khaled Hboubati
President of the Syrian Arab Red Crescent
Damascus, Syria

April 22, 2019

Dear Mr. Hboubati,

We write to request information in connection with research that Human Rights Watch has carried out with regards to the Syrian Arab Red Crescent's (SARC) engagement in humanitarian and protection activities in areas under the control of the government in the Syrian Arab Republic. This research is part of a broader report on the human rights implications of policies governing humanitarian aid, early recovery, and reconstruction in government-held Syria, which we plan to publish in mid-2019.

I am writing to seek your response to several questions, set out below. In the interests of thorough and objective reporting, we would appreciate it if you could provide us with a reply by May 22, 2019 so that we can reflect your views and comments in our forthcoming report.

Human Rights Watch is an independent, nongovernmental organization that monitors and reports on violations of international human rights and humanitarian law by state and non-state actors in more than 90 countries around the world.

Our research indicates that SARC is partnering with several international organizations and United Nations agencies to provide aid to government-held Syria. Our research also shows that the Syrian security services have interfered with SARC's ability to provide humanitarian aid,

confiscating supplies and preventing access to certain areas in Syria. We have learned that certain apparent employees of SARC have cooperated with security branches to steal and resell humanitarian supplies.

Following the above, we would appreciate receiving your responses to the following questions:

- What are the challenges that SARC faces in implementing projects in government-held Syria?
- What criteria does SARC use to determine which projects to undertake in government-held Syria?
- Can you kindly describe the protocols in place for SARC staff to engage with Syrian intelligence branches when conducting humanitarian operations? To what extent have intelligence branches interfered or undermined SARC's work? Please provide examples if possible. To the extent that interference has occurred, how has SARC responded to safeguard operations?
- Can you please clarify what steps SARC has taken to investigate and hold accountable employees who have stolen or misused humanitarian aid supplies? Could you provide us with the number of staff who have been disciplined and the corresponding punishments over the last year?
- Can you confirm whether SARC has regular and unfettered access to all areas in government-held Syria? To the extent that access is restricted, how does SARC assess local needs and monitoring whether intended beneficiaries are benefitting from the project?
- How many formal partnerships does SARC have with international organizations and UN agencies? What is SARC's role in these partnerships?
- How does SARC ensure that the technical and financial assistance it provides does not contribute to sectors or government agencies and or actors that have been sanctioned for or are known to be involved in human rights or international humanitarian law violations? Please provide relevant details.

In addition to responses to the above, we would welcome receiving any additional information you are able to provide regarding ensuring compliance with humanitarian and human rights principles in your operations in Syria. We would also welcome an opportunity to discuss these issues with you or other SARC representatives. If you would like to arrange such a discussion, please contact my colleague Sara Kayyali at [REDACTED].

Thank you for your kind assistance in this matter.

Lama Fakh

Director, Beirut Office
Deputy Director, Middle East and North Africa Division
Human Rights Watch

Appendix VI: Letter to Human Rights Watch from the Syrian Arab Red Crescent

May 13, 2019

Dear Mrs. Fakhri,

With reference to the letter sent by HRW to SARC headquarters on 22nd of April informing about the research that HRW has carried out about SARC's humanitarian activities in government-controlled areas, please see below our comments. At the same time, we ask for further clarification from HRW in regard to some issues we noticed based on your letter.

The first remark is about HRW not engaging with us in the research process related to SARC from the beginning, which draws a question mark on the method and sources of information used and whether it's first-hand data/information to draw conclusions concerning SARC.

The second issue is in regard to the scope of the research related to SARC, which was limited to the government-controlled areas of your choice. This draws yet another question mark on the reasoning behind this limited representation, and why not to cover all Syria with the humanitarian response activities in both government-controlled areas and out of control areas since we have activities in both and ignoring those activities will present a partial unclear view on the humanitarian response in Syria.

In answering to your various points, please see below.

Since 2011, SARC scaled-up its operating capacity and humanitarian response at unprecedented speed and level to meet the growing humanitarian needs with the support from international humanitarian partners. SARC is the largest local first responder with

more than 9,000 volunteers and 2300 staff actively responding to the humanitarian suffering, doing their best to fulfil the needs of the most vulnerable all over Syria.

With the Fundamental Principles at its core, SARC worked in crosslines and being the last-mile in the delivery of emergency aid and other services in government and out of government control areas. Unfortunately, this did not come without a price. Throughout the conflict, SARC faced severe institutional challenges and risks, most important 65 SARC volunteers and staff died in the line of duty during the past 8 years of the Syrian conflict. SARC's facilities, clinics and hospitals were destroyed, ambulances hijacked and rendered useless and volunteers and staff were detained, kidnapped or disappeared in different parts in Syria.

Our humanitarian response faces many challenges: guaranteeing safe and unhindered access to the affected people, obtaining required approvals from the parties to the conflict, coordinating the efforts between multiple humanitarian agencies to reach the desired efficient response to the needs, reporting on the activities to the partners and the donors, mobilizing resources to fulfil the vast needs all over Syria, and external misconceptions about SARC and politicisation of humanitarian action.

Our response and projects in Syria are driven by humanitarian needs only, based on needs-assessment carried on by SARC volunteers in sub-branches and branches all over Syria involving the communities using the humanitarian needs-assessments agreed upon with our partners, International Red Cross and Red Crescent Movement, UN agencies and INGOs. Based on first hand data and information collected directly from the field. SARC designs the interventions coordinating and in agreement with the funding partners. Mechanisms of implementation are agreed upon; reporting, monitoring and evaluation are set to have a complete project cycle that satisfies the back donors and partners.

SARC staff and volunteers should not have any engagement with any party to the conflict in a way that jeopardizes or breaches our Fundamental Principles - especially neutrality, impartiality and independency, the Code of Conduct which is signed by all volunteers and staff of our organization because that has a direct impact on the safety and security of our volunteers and staff, and it hinders our ability to access and reach the affected people, which is our priority.

Any suspicion of breach of the Fundamental Principles or the Code of Conduct is dealt with very seriously and an internal investigation is launched. Lack of compliance results in an immediate dismissal of the staff/volunteer. During the years of the crisis, SARC has dealt with few cases of breaches, where after undergoing investigations, staff members were fired, and volunteers were dismissed.

When the Fundamental Principles are in danger of being compromised by interference, SARC might suspend the activities until the necessary guarantees are granted, which was applied in the past. Should there be a suspicion of possible intrusion, the case is elevated to SARC headquarters and to the pertinent authorities at central and local levels as required. The possibility of suspending the activities is communicated, depending on the case, until the necessary guarantees are given.

We cannot stress enough that SARC continues to do its utmost to ensure that the services and relief reach only the targeted vulnerable population, and we continue our efforts to ensure strict adherence to the principles that govern our humanitarian aid and action.

With the hostile activities scaling down in some areas, SARC has increased sustained access to these areas, whether it is in government controlled or out of control areas. Through its network of branches and sub-branches, SARC has been conducting detailed needs assessment in cooperation with UN agencies such as WFP, UNHCR and others to retarget beneficiaries and update current projects and activities based on the evolving situation in these areas.

SARC has MOUs with 13 INGOs working from Damascus, and works in partnership with almost all UN agencies and the International Red Cross and Red Crescent Movement partners (ICRC, IFRC and Red Cross National Societies who have delegates working integrated with SARC headquarters such as Canadian, Finish, German, Danish, Norwegian, Swiss and British National Societies. The cooperation modality is different with each partner based on the MOU or project agreement. For example, the MOU with INGOs is only for coordination and cooperation, the agreement with the UN agencies covers implementation, distribution and reporting which leaves the monitoring to be done by the partners or by third party monitors contracted by the partners and facilitated by SARC.

SARC enjoys direct access to beneficiaries, our volunteers are the last mile for service provisioning. SARC does not contract any third party for service delivery nor delivers aid through a third party, ensuring as such that the intended aid or service does in fact reach the people in need directly guaranteeing to the degree possible no aid diversion occurs and no party to the conflict has influence or gain from SARC humanitarian action in line with the Fundamental Principles. The beneficiary selection is conducted by SARC staff and volunteers based on agreed upon vulnerability criteria between SARC and the partners then beneficiaries are registered to receive relief items.

We look forward to seeing a balanced and just coverage of SARC humanitarian activities during this crisis in your report to help shed more light on the suffering of the people in need all around Syria so more support can be mobilized and provided.

Regards

Eng. Khaled Hboubati
President, Syrian Arab Red Crescent

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Appendix VII: Letter to the United Nations Habitat from Human Rights Watch



www.hrw.org

May 21, 2019

Chamith Fernando
Syria Country Director
United Nations Habitat (UN-HABITAT)

Dear Mr. Fernando,

We write to request information in connection with research that Human Rights Watch has carried out with regards to the United Nations Habitat (UN-HABITAT) engagement in humanitarian and development activities in areas under the control of the government in the Syrian Arab Republic. This research is part of a broader report on the human rights implications of policies governing humanitarian aid, early recovery, and reconstruction in government-held Syria, which we plan to publish in June 2019.

In the interests of thorough and objective reporting, we would appreciate it if you could provide us with a reply by June 5, 2019 so that we can reflect your views and comments in our forthcoming report.

Human Rights Watch is an independent nongovernmental organization that monitors and reports on human rights in ninety countries around the world.

Our research also indicates that UN-HABITAT has issued tenders for the development of a cadastral building in al-Qussayr through the UN

Development Programme (UNDP). Al-Qussayr was home to around 30,000 people before the conflict, and was retaken by the Syrian government in 2013. Since then, reportedly hundreds of displaced persons from al-Qussayr have attempted to return, but the government has blocked them from returning, effectively stripping them of their property rights. Residents whom Human Rights Watch spoke to said the government did not provide a clear reason why the area was off-limits.

In October 2017, in recognition of the difficult operating environment that Syria poses, the UN Department of Political Affairs and UNDP led in the development of parameters and principles that should apply for all UN actors operating in Syria. Among the principles, UN actors operating in Syria are required to work directly with communities and households regardless of zones of influence; carefully consider the human rights and protection implications, especially as to where and how assistance is provided; and must not assist parties who have allegedly committed war crimes or crimes against humanity. The principles state that UN assistance shall be determined consciously and explicitly without prejudice to the goals of accountability for serious human rights violations.

Based on those considerations, we would appreciate receiving your responses to the following questions:

1. Can you kindly confirm whether UN-HABITAT is issuing tenders for the cadastral building in al-Qussayr?
2. Did UN-HABITAT do any due diligence to ascertain whether human rights violations were committed with regards to the areas where it intends to implement projects? If so, can you please provide that assessment or provide details about it?
3. Does UN-HABITAT conduct due diligence to determine the legal status of land it develops projects on? If so, what steps are undertaken?
4. Does UN-HABITAT undertake due diligence to ascertain whether property it might use has been expropriated? If so, can you provide details of that analysis?
5. In the case of expropriations, does UN-HABITAT establish contact with affected communities and dispossessed residents to ascertain whether they have been adequately compensated and provided with alternative housing?
6. What criteria does UN-HABITAT use to determine which projects to undertake in government-held Syria and where?

7. Does UN-HABITAT conduct in-person field assessments before implementing projects? Please provide relevant details.
8. Does UN-HABITAT have full and regular access to areas where it is or intends to implement projects? To the extent that access is restricted, how does UN-HABITAT assess local needs and monitor whether intended beneficiaries are benefitting from the project?
9. Does UN-HABITAT conduct a conflict-sensitivity assessment before implementing projects? Please provide us with relevant details.
10. What are the challenges that UN-HABITAT faces in implementing projects in government-held Syria? Specifically, what does UN-HABITAT see as the main obstacles to implementing projects in government-held Syria in a manner that respects the rights of the beneficiary population?
11. Who are UN-HABITAT's main local partners in Syria? How does UN-HABITAT ensure that it does not partner with local actors or entities that are known to be or have been sanctioned for human rights violations and repression of civilian populations?

In addition to responses to the above, we would welcome receiving any additional information you are able to provide regarding ensuring compliance with humanitarian and human rights principles in your operations in Syria. We would also welcome an opportunity to discuss these issues with you or other UN-HABITAT representatives. If you would like to arrange such a discussion, please contact my colleague Sara Kayyali at [REDACTED].

Thank you for your kind assistance in this matter.

Sincerely,

Lama Fakih

Acting Director
Middle East and North Africa
Human Rights Watch



RIGGING THE SYSTEM

Government Policies Co-Opt Aid and Reconstruction Funding in Syria

Eight years into the Syrian conflict, hundreds of thousands have been killed, millions displaced, and the country's infrastructure completely devastated crippling most of the country and creating immense humanitarian needs. Rebuilding Syria's infrastructure is crucial to providing Syrians with their basic rights, including access to health, education, and shelter. But an abusive state apparatus, coupled with lack of access and transparency, translates into significant risks that the Syrian government will use aid to further human rights abuses and prevent it from reaching individuals that need it. This report examines policies around the provision of humanitarian assistance and reconstruction and development funding to Syria during the conflict and finds that the Syrian government has often rigged the system for provision of humanitarian aid and reconstruction. It argues that urgent reforms should be implemented, or donors, investors, and organizations risk finding themselves effectively financing a machinery of repression. It provides recommendations for how the provision of aid and investments can become more rights-compliant.

(above) An aid convoy drives through the city of Douma, Eastern Ghouta, Syria, in March 2018 when it was still held by anti-government armed groups.

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(front cover) Residents walk through rubble with damaged electricity lines at the mountain resort town of Zabadani in the Damascus countryside, Syria, on May 18, 2017.

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