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Does the Present Interpretation of the UN Principles Cause Harm in Syria and Yemen?

About the Author

Tayseer Alkarim is a non-resident fellow at the NYU Center on International Cooperation.

This policy brief takes a comparative examination of how the United Nations has adopted a paradoxical interpretation of its guiding principles to address the complex humanitarian crises in Syria and Yemen. It offers approaches that could change the course of international humanitarian operations and protect them from further politicization, weaponization, and diversion.

The consequences of the February 2023 earthquakes in Turkey and Syria extend far beyond physical destruction and loss of life, particularly in northwestern Syria (NWS). Immediately after the earthquake, extensive debates erupted within the local and international humanitarian community, criticizing the United Nations (UN) for its inadequate response. These debates quickly broadened to include concerns that UN humanitarian assistance had become a powerful tool for the Assad regime in its strategy to make political and military gains in war-torn Syria. The dilemma of international humanitarian assistance in Syria is not just a matter of timing or funding but, more importantly, of delivery mechanisms. Syria's endless humanitarian nightmare revolves around the controversial interpretation of the guiding principles of the UN.

During the Gulf War, the UN General Assembly adopted resolution 46/182 in December 1991, which established a framework for humanitarian assistance and a set of guiding principles, including "respect for sovereignty." This resolution also endorsed the humanitarian principles of humanity, neutrality, and impartiality; the fourth principle, independence, was added in 2004.¹ Since then, resolution 46/182 has formed the basis for the United Nations Office for the Coordination of Humanitarian Affairs (UNOCHA)'s mandate.² Although this resolution has created the international humanitarian system as we know

¹ "Resolution adopted by the General Assembly on 17 December 2003, Strengthening of the coordination of emergency humanitarian assistance of the United Nations," GA Res A/RES/58/114, UNGA, 58th Sess, Agenda Item No 40a, February 5, 2004, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/No3/501/42/PDF/No350142.pdf>.

² "OCHA on Message: General Assembly resolution 46/182," UN OCHA, March 2012, https://www.unocha.org/sites/unocha/files/dms/Documents/120402_OOM-46182_eng.pdf.

it, the interpretation of its guiding principles has failed to address the complex realities of modern conflict.

Invoking the UN mandate and guiding principles, the Assad regime relentlessly sought to exclusively control humanitarian aid flowing into the country, arguing that Damascus remained the "legitimate government." For many Syrians, the UN's moral failure to modernize and contextualize the application of these principles helped the Assad regime restore undeserved legitimacy, regain control of areas it had lost to the opposition, and recoup some of the costs of the war, despite its notorious human rights record.

A very strict interpretation of these guiding principles has also helped Damascus manipulate the economic sanctions imposed since 2011. The billions of dollars in humanitarian funds flowing into the country through the UN have become one of Damascus's most important sources of hard currency. Of the USD 40 billion that has flowed into Syria as humanitarian aid, at least USD 23 billion has come from United Nations programs.³ It is difficult to refute that humanitarian assistance channeled by the UN "has provided the authoritarian regime with access to critical benefits and resources to sustain itself at times of acute threats to its survival."⁴ In 2020, the Assad regime diverted nearly USD .51 of every international aid dollar spent in Syria.⁵ Although the UN has affirmed that rigorous standards of due diligence should apply, drawing from the principles of the Human Rights Due Diligence Policy, "the UN shall apply the UN Guiding Principles for Business and Human Rights in all areas of its work in Syria."⁶ Human Rights Watch and the Syrian Legal Development Program have found that UN agencies operating in Syria often do not conduct human rights risk assessments. Their report cites examples such as Shourouk for Security Services (a private security firm reportedly has links to Maher al-Assad, brother of Syrian President Bashar Al-Assad, and Aleppo Defenders Legion, a militia-turned-service provider in Aleppo).^{7,8} In addition, the High Relief Committee for Humanitarian Coordination, a forum where

³ Sasha Ghosh-Siminoff and Nidal Betare, "A Crisis of Conscience: Aid Diversion in Syria and the Impact on the International Aid System," *Newlines Institute*, July 1, 2022, <https://newlinesinstitute.org/human-security/a-crisis-of-conscience-aid-diversion-in-syria-and-the-impact-on-the-international-aid-system>.

⁴ Reinoud Leenders and Kholoud Mansour, "Humanitarian, State Sovereignty and Authoritarian Regime Maintenance in the Syrian War," *Political Science Quarterly*, 133 no.2 (2018): p. 225-257, <https://doi.org/10.1002/polq.12773>.

⁵ Natasha Hall, Karam Shaar, and Munqeth Otham Agha, "How the Assad Regime Systematically Diverts Tens of Millions in Aid," *Center for Strategic and International Studies*, October 20, 2021, <https://www.csis.org/analysis/how-assad-regime-systematically-diverts-tens-millions-aid>.

⁶ "Parameters and Principles of UN assistance in Syria," October 2017, <https://www.kommersant.ru/docs/2018/UN-Assistance-in-Syria-2017.pdf>.

⁷ "Syria: Major Problems with UN Procurement Practices," *Human Rights Watch*, January 27, 2022, <https://www.hrw.org/news/2022/01/27/syria-major-problems-un-procurement-practices>.

⁸ Between 2015 and 2020, UN agencies awarded Shourouk for Security Services contracts worth over USD 4 million. This private security firm reportedly has links to Maher al-Assad, brother of Syrian President Bashar Al-Assad, and the abusive Fourth Division of the Syrian military, which has participated in acts that resulted in the extrajudicial killing of thousands of protesters and the arbitrary arrest of tens of thousands of people across the country. In another example, in 2019, according to publicly available images, the UNDP reportedly contracted the Aleppo Defenders Legion, a militia-turned-service provider in Aleppo.

The modalities of intervention in Syria and Yemen exemplify the paradoxical interpretation of the guiding principles of the UN.

international organizations meet with ministries (all of whom are on the sanctions list) and the Syrian Arab Red Crescent (SARC), is effectively controlled by the most powerful intelligence forces, military, and airforce security, all sanctioned as well.

The systematic politicization, weaponization, and corruption of humanitarian assistance in Syria is a well-documented narrative. **However, there has been little comparative examination of how the UN has defined its guiding principles as it navigates Syria's political maze.**

The modalities of intervention in Syria and Yemen exemplify the paradoxical interpretation of the guiding principles of the UN. In Syria, the UN has adhered to its traditional interpretation of "full respect for sovereignty and provision of humanitarian assistance with the consent of the affected country" to justify conducting its operations almost exclusively under the control of Damascus. This decision is backed by the fact that the Assad government retains its seat in the United Nations. In Yemen, however, the UN continues to direct its operations from Sana'a, which is under the control of the Houthis movement, which is not recognized by the international community as a legitimate government. Indeed, the UN played a significant role in removing the movement from the terrorist list in 2021. In 2021, the movement was removed from the terrorism list. Like the Assad regime, the movement has been widely accused of weaponizing and diverting humanitarian aid.

Against this backdrop, an open and transparent dialog to answer pressing questions and concerns about the UN humanitarian aid in Syria is more necessary than ever:

- Why is Damascus the main—and mostly the only—recipient of international funds?
- Why does a government indicted and widely sanctioned for war crimes still control humanitarian aid intended for its victims?
- How can the international community protect humanitarian aid from politicization, weaponization, and diversion?
- More importantly, does the UN really lack a legal basis to achieve its intended goals without becoming hostage to invalid and inadequate guiding principles?

There is no better way to describe it than Hugo Slim in his guide to the morality of aid in war and disaster: "when a government is dangerous, genocidal, or kleptocratic, it may well be best to set up parallel humanitarian structures that buffer and protect people from their government. In certain situations, the most

dangerous thing you can do to a community is to connect it with its government."⁹

The humanitarian system of the United Nations

Humanitarian action can be defined as a "compassionate response to extreme and particular forms of suffering arising from organized human violence and natural disasters."¹⁰ This response is subject to globally agreed humanitarian principles such as humanity, impartiality, neutrality, and independence, as well as guiding principles such as "respect for sovereignty." The management mechanisms of the UN must be subject to strict measures such as accountability, transparency, and continuity.

The UN General Assembly adopted Resolution 46/182 in December 1991. This resolution not only established today's international humanitarian system but also created the United Nations Office for the Coordination of Humanitarian Affairs (UNOCHA).

The resolution contains 12 guiding principles for humanitarian assistance, spearheaded by "full respect for the sovereignty [...] humanitarian assistance should be provided with the consent of the affected country," and "each State has the responsibility, first and foremost, to take care of the victims of natural disasters and other emergencies occurring on its territory."

In theory, adherence to these principles is critical to distinguishing humanitarian action from political or military activities and objectives. In modern armed conflicts, however, these principles are seriously challenged, especially when governments are implicated in human rights abuses, and their legitimacy is questioned. **In such complex and militarized environments, the traditional interpretation of these guiding principles has led to profound dilemmas, as in the cases of Syria and Yemen.** On the one hand, institutional fragmentation in these countries has led to an archipelago of conflicting de facto authorities, each of which controls large swaths of the country and enjoys a degree of regional and international recognition. On the other hand, de facto authorities are accused of serious human rights violations, including war crimes and crimes against humanity. They are notorious in both countries for systematically weaponizing and diverting humanitarian aid.

The UN Humanitarian Role in Syria

Entering its twelfth year, few remember how the civil war in Syria was ignited and what fueled it to become one of the world's worst humanitarian crises.

⁹ Hugo Slim, *Humanitarian Ethics* (London: Hurst & Company, 2015): pg 85.

¹⁰ *Ibid.*

What began in March 2011 as a peaceful popular movement advocating political and socioeconomic change tragically morphed into uncontrolled, brutal violence that killed more than half a million civilians, displaced more the half of the country's pre-war population, decimated entire cities, destroyed the economy, and robbed countless Syrian children of their futures. The catastrophic situation has been exacerbated by a series of other shocks, including severe drought, economic sanctions, economic depression in neighboring countries, the COVID-19 pandemic, the economic fallout from the war in Ukraine and related sanctions, and, most recently, the devastating earthquake.

The slow response to the earthquake was not the first time that UN action or inaction had been called into question, nor will it be the last.

In July 2012, the International Committee of the Red Cross (ICRC) classified the Syrian conflict as a civil war, making the provisions of international humanitarian law (IHL) applicable to humanitarian assistance.¹¹ However, since violence rapidly escalated in Syria in 2011, the UN has been slow to respond to the scale of the crisis in Syria and has been repeatedly accused of being too close to the government. According to an assessment of UNOCHA's response conducted by the UN itself, "the slow and fragmented humanitarian effort should be seen as the system underperforming."¹²

UNOCHA's Geneva Director Rashid Khalikov led the UN's first humanitarian mission to Syria from August 20-25, 2011, with the goal of "independently assessing the overall humanitarian situation." This mission took place just two days after the International Criminal Court (ICC) reported on "widespread and systematic" attacks by the Syrian government on its own people that could constitute crimes against humanity.¹³ Despite visiting several of the country's most affected districts, such as Douma, Mo'adamiya, Homs, Tall Kalakh, Banyas, Baida, and others, the mission concluded that "there is no country-wide humanitarian crisis or any immediate need for large-scale provision of relief."¹⁴ As a result, UNOCHA did not declare Syria a corporate emergency until September 2012, and the Syria Humanitarian Action and Response Plan (SHARP) was not prepared until late 2012 (for 2013). During this period, it was

¹¹ Melisa Goh, "Red Cross Declares Civil War in Syria," *NPR*, July 15, 2012, <https://www.npr.org/sections/thetwo-way/2012/07/15/156808427/red-cross-declares-civil-war-in-syria#:~:text=The%20conflict%20in%20Syria%20has,parties%2C%20whether%20rebel%20or%20government>.

¹² Lewis Sida, Lorenzo Trombetta, and Veronica Panero, "Evaluation of OCHA response to the Syria crisis," *UN OCHA*, March 2016, https://www.unocha.org/sites/dms/Documents/OCHA%20Syria%20Evaluation%20Report_FINAL.pdf.

¹³ "Syrian crackdown on protesters may amount to crimes against humanity – UN report," *UN News*, August 18, 2011, <https://news.un.org/en/story/2011/08/384432/>

¹⁴ Relief Web, "OCHA ROMENACA Regional Humanitarian Update July – August 2011 [EN/AR]," *UN OCHA*, September 15, 2011, <https://reliefweb.int/report/syrian-arab-republic/ocha-romenaca-regional-humanitarian-update-july-august-2011-en-ar>.

already estimated that up to 2.5 million people were directly or indirectly affected by the crisis, including an estimated 1.2 million displaced people.¹⁵

Moreover, it was not until January 2013 that the Inter-Agency Standing Committee (IASC) declared Emergency Level 3 (the highest crisis level for the United Nations, requiring a whole-of-organization effort),¹⁶ despite the fact that nearly 6.8 million people needed humanitarian assistance during that period, representing more than 20% of Syria's population, and more than 70,000 people had been killed.¹⁷ The Food and Agriculture Organization (FAO), the World Health Organization (WHO), and UNICEF were reportedly the most reluctant to declare Emergency Level 3.¹⁸

Since the early days of the conflict in Syria, the UN humanitarian organizations found themselves facing the government, which still maintained its seat at the United Nations. The UN agencies did not consider it was possible that they could violate sovereignty, UNOCHA said.¹⁹ This situation has resulted in the Assad regime becoming the primary and for the most part, the sole recipient of humanitarian aid flowing into the country. The resulting influence not only still affects the flow of aid to areas designated by the Syrian government and the routing of funds to organizations it controls, but it also includes approval of appointments of UN staff.²⁰ One of the glaring examples is the Assad regime's representative on the Executive Board of the WHO, the Minister of Health, Dr. Hassan Mohammad Al Ghabbash, who is on the sanctions list of the European Union (EU) and the United Kingdom for "sharing responsibility for the Syrian regime's violent repression against the civilian population." According to the WHO constitution, such a position provides the sanctioned representative "immunity from every form of legal process."²¹

Moreover, the UN was criticized for submitting to Damascus's efforts to manipulate the narrative of the war itself. For example, government officials told UN agencies and international non-governmental organizations (INGOs) that they would be denied future access if they mentioned diversion from convoys. For UNOCHA, it is "standard procedure in each country for the UN to consult with the government of the country." Thus, perpetrators accused of serious human rights violations and of weaponizing humanitarian aid were

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¹⁵ UN OCHA Services, "Syria Humanitarian Assistance Response Plan (SHARP, September 2012)," *UN OCHA*, October 25, 2012, <https://www.humanitarianresponse.info/es/programme-cycle/space/document/syria-humanitarian-assistance-response-plan-sharp-september-2012>.

¹⁶ UN OCHA, "2013 Annual Report," *UN OCHA*, 2013, https://www.unocha.org/sites/unocha/files/2013%20OCHA%20Annual%20Report_o.pdf.

¹⁷ "An NGO Perspective on the Response to the Syria Crisis," *InterAction and ICVA*, May 2013, <https://www.alnap.org/system/files/content/resource/files/main/syria-trip-mission-report.pdf>.

¹⁸ Sida, Trombetta, and Panero, "Evaluation of OCHA response."

¹⁹ *Ibid.*

²⁰ Lars Hauch, "The Humanitarian Disaster During the Battle for Baghouz," *Middle East Institute*, January 2020, <https://www.mei.edu/sites/default/files/2020-01/Humanitarian%20disaster%20during%20the%20battle%20for%20Baghouz.pdf>.

²¹ Tayseer Alkarim, Lia Harris, and Abdullah Chahin, "WHO needs reform: why and how Syria was elected to the WHO Executive Board?" *BMJ Global Health* 6 no. 8 (August 2021), <https://gh.bmj.com/content/6/8/e006801.info>.

"lawfully" allowed to choose the language used to describe their violations in the UN reports. Simply put, the "impartial" language of the UN has dramatically undermined its principle of "independence."

Another danger posed by the UN mandate is that Damascus could "lawfully" prevent UN teams from visiting affected communities or sites, exposing UN missions to further politicization and extortion. UNOCHA's evaluation of its response to the Syrian crisis (2016) states, "The Syrian Government has effectively blocked attempts to do proper needs assessments, and access and security constraints have been huge; the first unified assessment was only produced in 2014."²²

To make the UN's guiding principles even more controversial in Syria, the UN Commission of Inquiry on Syria itself has documented crimes against humanity committed by the government, such as "extermination, murder, rape and other forms of sexual violence, torture, detention, enforced disappearances, and other inhumane acts."²³

The most important attempt to free international humanitarian assistance from the control of the Assad regime was the cross-border mechanism of the United Nations Security Council (UNSC). This mechanism was fleshed out by 2139 (2014)²⁴ and 2165 (2014)²⁵ Security Council resolutions. The second resolution authorized the use of four border crossings, in addition to those already in use, "for UN humanitarian operations, without prior approval from Damascus but with notification confirming the humanitarian nature of these relief consignments." A vital issue in the adoption of these resolutions was the concept of arbitrary denial (Common Article 3 of the Geneva Conventions, whereby it is understood that States are not permitted to withhold consent on "arbitrary or capricious" grounds), Resolution 46/182 GA and international humanitarian law as applied to the situation in Syria.²⁶ However, in the following years, Russia managed to suppress the cross-border mechanism through its numerous vetoes, insisting that the mechanism violated Assembly Resolution 46/182, the sovereignty of Syria, and the need for the consent of the host State."²⁷

²² Sida, Trombetta, and Panero, "Evaluation of OCHA response."

²³ "Detention in the Syrian Arab Republic: A Way Forward," *UN Independent International Commission of Inquiry on Syria*, March 8, 2018, https://www.ohchr.org/sites/default/files/Documents/HRBodies/HRCouncil/CoISyria/AWayForward_DetentionInSyria.pdf.

²⁴ Department of Public Information, United Nations Security Council, "Security Council Unanimously Adopts Resolution 2139 (2014) to Ease Aid Delivery to Syrians, Provide Relief from 'Chilling Darkness,'" *United Nations Security Council SC/112921*, February 22, 2014, <https://press.un.org/en/2014/sc112921.doc.htm>.

²⁵ Department of Public Information, United Nations Security Council, "With Millions of Syrians in Need, Security Council Adopts Resolution 2165 (2014) Directing Relief Delivery through More Border Crossings, across Conflict Lines," *United Nations Security Council SC/11473*, July 14, 2014, <https://press.un.org/en/2014/sc11473.doc.htm>.

²⁶ Sida, Trombetta, and Panero, "Evaluation of OCHA response."

²⁷ United Nations General Assembly Meeting Coverage, "Speakers Debate Terms, Merits of Cross-Border Aid Operations in Syria's North-West, as General Assembly Considers Security Council Text Vetoed by Russian Federation," *United Nations General Assembly (GA/12436)*, July 21, 2022, <https://press.un.org/en/2022/ga12436.doc.htm>.

The prevailing interpretation of the guiding principles of the UN has led to a thorny legal quagmire in Syria. The moral failure of the UN to modernize and contextualize the application of its mandate has meant that the principles intended to help victims have become catalysts for their tragedies. Only a week after the February quakes, UN relief chief Martin Griffiths said, "We have so far failed the people in northwest Syria. They rightly feel abandoned. Looking for international help that hasn't arrived. My duty and our obligation is to correct this failure as fast as we can. That's my focus now."²⁸

In the days following the earthquake, rumors made the rounds that the UN was exploring the possibility of establishing offices to manage humanitarian aid in rebel-held northwestern Syria.

Although UNOCHA's director of strategic communications in Turkey said that "the UN has no current plans to open up an office in NW Syria at the moment,"²⁹ discussions surrounding this "plan" have raised critical concerns, particularly about reporting and information sharing with Damascus.

Despite the challenges of such a move, it could strengthen the independence of the UN's operations in the region from Damascus' influence and positively impact the renewal of the cross-border mechanism. It is important to note that the UN is present in northeastern Syria (NES), albeit on a modest scale, but it conducts its operations in NWS from Turkey.

The UN and the Humanitarian Situation in Yemen

It has become common to refer to the situation in Yemen as "the world's largest humanitarian crisis," but it is rarely mentioned that it is also "the worst international response" to a humanitarian crisis.³⁰

Even before the recent conflict, Yemen was the most impoverished country in the Arab region. The country plunged into full-scale civil war in 2014 after the Iran-backed Houthis took over the capital, Sana'a. In 2015, the Kingdom of Saudi Arabia formed a coalition that launched "Operation Decisive Storm" against the Houthis and their allies at the behest of interim President Abdo Rabbo Mansour Hadi. In 2017, the UN described Yemen as the largest

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²⁸ Martin Griffiths, Twitter post, February 12, 2023, 4:27 a.m. (Eastern), <https://twitter.com/UNReliefChief/status/1624701773557469184?s=20>.

²⁹ Slemrod, Annie, "Exclusive: UN discussing plans to open aid offices in rebel-held northwest Syria," *New Humanitarian*, March 22, 2023, <https://www.thenewhumanitarian.org/news/2023/03/22/exclusive-un-plans-open-aid-offices-rebel-held-northwest-syria#:~:text=The%20UN%20is%20exploring%20the,immediate%20plans%20to%20do%20so.>

³⁰ United Nations Security Council 8878th Meeting (AM), "Failure in Delivering Aid for Yemenis 'the Worst International Response to a Humanitarian Crisis', Civil Society Briefer Tells Security Council," *United Nations Security Council SC/14661*, October 14, 2021, <https://press.un.org/en/2021/sc14661.doc.htm>.

humanitarian crisis since the end of World War II.³¹ Some 70 percent of the country's 30 million population now depend on humanitarian aid for survival.³²

The UN Security Council resolution 2216 (2015)³³ reiterated its support for the legitimacy of Yemeni President Abdo Rabbo Mansour Hadi. It strongly condemned the "ongoing unilateral actions taken by the Houthis, and their failure to implement the demands in resolution 2201 (2015)³⁴ to immediately and unconditionally withdraw their forces from government institutions, including in the capital Sana'a, normalize the security situation in the capital and other provinces, relinquish government and security institutions, and safely release all individuals under house arrest or arbitrarily detained."³⁵ However, the Houthi movement, which controls the most densely populated third of the country, defied all these condemnations and continued its political and military projects in the areas it controlled and far beyond. In fact, the movement has established its own local government, governance structures, and military, political, and economic institutions.

Years of brutal fighting have led to an institutional fragmentation of the once unified Yemeni government into three conflicting de facto authorities: the internationally recognized Government of the Republic of Yemen (ROYG), the Ansar Allah movement (the Houthis), and the secessionist Southern Transitional Council (STC).³⁶ These authorities differ in their regional and international recognition and, thus, in their relations with the United Nations and international donors.

Since 2015, the UN and its partners have been on the ground providing life-saving assistance and protection. The UN has established five operational hubs in Aden, Sa'ada, Al Hudaydah, Ibb, and Sana'a to enhance its capacity to deliver assistance throughout the country. All these hubs except Aden are located in Houthi-controlled areas, and the main office is in Sana'a. Since the Houthis controlled the capital, the movement has been able not only to control the operations of the UN in their area, but it has also been able to disrupt the operations throughout the country. The Houthi authorities' onerous bureaucratic aid requirements without justification have blocked millions of Yemenis from life-saving aid.³⁷ International humanitarian law requires parties to the conflict, including the de facto Houthi authorities, not to withhold consent to relief operations on arbitrary grounds and to enable and facilitate

The Houthi authorities' onerous bureaucratic aid requirements without justification have blocked millions of Yemenis from life-saving aid.

³¹ AP Wire, "World faces worst humanitarian crisis since 1945, says UN official," *The Guardian*, March 10, 2017,

<https://www.theguardian.com/world/2017/mar/11/world-faces-worst-humanitarian-crisis-since-1945-says-un-official>

³² UNHCR, "Needs mount as conflict in Yemen rages on," *UNHCR Global Focus*, April 1, 2022, <https://reporting.unhcr.org/yemen>.

³³ "Resolution adopted by the General Assembly on 17 December 2003, Strengthening," GA Res A/RES/58/114.

³⁴ United Nations Security Council Resolution 2201, S/RES/2201, 7382th meeting, February 2015, <http://unscr.com/en/resolutions/2201>.

³⁵ "Resolution adopted by the General Assembly on 17 December 2003, Strengthening," GA Res A/RES/58/114.

³⁶ Leah Zamore, Tayseer Alkarim, and Hanny Megally, "Unparalleled: COVID-19 and the Humanitarian Crisis in Yemen," *NYU Center on International Cooperation*, July 22, 2020, <https://cic.nyu.edu/resources/unparalleled-covid-19-and-the-humanitarian-crisis-in-yemen/>.

³⁷ HRW, "Deadly Consequences: Obstruction of Aid in Yemen during COVID-19," *Human Rights Watch*, September 14, 2020, <https://www.hrw.org/report/2020/09/14/deadly-consequences/obstruction-aid-yemen-during-covid-19>.

Strictly applying the guiding principles of resolution 46/182 as in Syria, the UN humanitarian intervention must be carried out under the auspices of and in agreement with the legitimate government, the internationally recognized government in Yemen.

prompt and unimpeded impartial assistance to civilians in need.³⁸ The movement was widely condemned for weaponizing and diverting humanitarian aid. “The Houthis have a particularly egregious record of obstructing aid agencies from reaching civilians in need, at least in part to divert aid to Houthi officials, their supporters, and Houthi fighters,” Human Rights Watch said.³⁹

To entrench their full control of international aid, the Houthis established the Supreme Council for the Management and Coordination of Humanitarian Affairs and International Cooperation (SCMCHA) in 2019. The council “manages and organizes the affairs of the organizations working in the Republic of Yemen and also participates in planning the work policies of local institutions and organizations in their relationship with international and foreign governmental and non-governmental organizations.”⁴⁰ The Houthi-owned SCMCHA has a monopoly on all humanitarian assistance in Yemen in Houthi-controlled areas. This means that all civil society groups wishing to provide aid must abide by the rules and requirements of the Houthi authorities and submit to total control.⁴¹

In addition, the United Nations has vigorously sought to reverse the United States' decision to classify the Houthis movement as a Foreign Terrorist Organization (FTO) and a Specially Designated Global Terrorist (SDGT), arguing that this classification would exacerbate the humanitarian crisis in the country and increase hostilities. It would also hinder the transfer of aid and its delivery to those in need, to name just a few arguments. Martin Griffiths, the then UN special envoy to Yemen, even said that to end the conflict, he would continue to work with all parties, including Ansar Allah, “whether or not they are classified as a terrorist organization.”⁴² As a result of these efforts, the classification was quickly lifted on February 16, 2021. “We have heard warnings from the United Nations, humanitarian organizations, and members of Congress from both parties, among others, that the classification could have a devastating impact on Yemenis' access to basic necessities such as food and fuel,” the State Department said.⁴³

Strictly applying the guiding principles of resolution 46/182 as in Syria, the UN humanitarian intervention must be carried out under the auspices of and in

³⁸ Ibid.

³⁹ Ibid.

⁴⁰ “About SCHMCHA,” Supreme Council for Management and Coordination of Humanitarian and International Cooperation,” Accessed April 2023, <https://www.scmcha.org/en/about-namcha>.

⁴¹ Afrah Nasser, “The Flaws and Failures of International Humanitarian Aid to Yemen: Submission to Warlords,” *Arab Center Washington D.C.*, October 20, 2022, [https://arabcenterdc.org/resource/the-flaws-and-failures-of-international-humanitarian-aid-to-yemen/#:~:text=After%20Houthi%20leaders%20realized%20that.and%20International%20Cooperation%20\(SCMCHA\)](https://arabcenterdc.org/resource/the-flaws-and-failures-of-international-humanitarian-aid-to-yemen/#:~:text=After%20Houthi%20leaders%20realized%20that.and%20International%20Cooperation%20(SCMCHA)).

⁴² Press Release, “United States’ Designation of Houthi Militia as Foreign Terrorist Organization Risks Expediting Large-Scale Famine in Yemen, Speakers Warn Security Council,” *United Nations Security Council*, January 14, 2021, <https://reliefweb.int/report/yemen/united-states-designation-houthi-militia-foreign-terrorist-organization-risks>.

⁴³ Press Statement, Antony J. Blinken, Secretary of State, “Revocation of the Terrorist Designations of Ansarallah,” U.S. Department of State, February 12, 2021, <https://www.state.gov/revocation-of-the-terrorist-designations-of-ansarallah/>.

agreement with the legitimate government, the internationally recognized government in Yemen. Unlike in Syria, the UN remains in Sana'a to this day, conducting its programs under the authority of the Houthis movement, which is not recognized by the international community as a legitimate government.

The way the UN has managed its operations and relations with parties to the conflict has shown that the UN is legally able and flexible to define its guiding principles depending on the context of the humanitarian crisis, but this has never happened in Syria.

Why do these paradoxical roles matter?

The pressure on the UN to compromise humanitarian principles, such as providing humanitarian assistance to achieve political or military objectives, cannot be ignored or undermined. Maintaining principled humanitarian action is essential to ensure that humanitarian assistance is guided solely by the specific needs of affected people in all contexts. Nevertheless, the challenges posed by modern conflict cannot be neglected.

The considerable similarities between the armed conflict in Syria and Yemen provide a different reading of the UN mandate and guiding principles. These parallels include devastating humanitarian and human rights crises in which millions of people rely solely on humanitarian aid for survival; the systematic politicization, weaponization, and diversion of humanitarian aid; and the institutional fragmentation that divided the two countries between conflicting de facto authorities, each of which enjoys a degree of regional and international recognition but is tainted by infamous human rights records. Also, although billions of dollars in humanitarian aid have poured into both countries, the fragility and vulnerability are staggering and do not bode well. Surprisingly, the two countries differ almost entirely in the position of the United Nations in addressing their humanitarian crises, revealing profound paradoxes in the international humanitarian system.

Violence, sanctions, and conflict dynamics can explain only a fraction of the alarming deterioration in humanitarian conditions. The mandate and guiding principles of the UN, if examined impartially and transparently, could explain other parts of the humanitarian failure of the UN humanitarian response in both countries.

It is no secret that the situation in northeastern Syria is very complex, but we must look for all possible solutions. Among the approaches that could change the course of international humanitarian operations and protect them from further politicization, weaponization, and diversion are:

- 1) ***The United Nations and other leading local and international non-governmental organizations and donors should engage in***

The considerable similarities between the armed conflict in Syria and Yemen provide a different reading of the UN mandate and guiding principles.

transparent high-level dialogue to develop new interpretations and definitions of the guiding principles for their work in Syria, especially given the notorious human rights record of the "legitimate government" in Damascus. In a world where human rights records are one of the essential tools for interpreting and defining the legitimacy of parties to a conflict, traditional interpretations of these guiding principles must be revised.

- 2) **Institutional fragmentation in Syria poses significant challenges to the guiding principles of the three-decades-old international humanitarian system.** This phenomenon challenges Syria and many other armed conflicts in the region, such as Yemen and Libya, and could occur in other future armed conflicts. Syria's humanitarian crisis is an opportunity to discuss and address this phenomenon at the highest levels within the United Nations and the humanitarian community at large. Modernized approaches must be proposed to deal with this phenomenon, whether now or in the future.
- 3) **Push the plan to establish a UN office (hub) in northwestern Syria, with strong measures to protect it from Assad's manipulations.** This could be achieved by strengthening the office's independence by having it report directly to Geneva or New York and allocating a fair share of funds flowing to Syria (e.g., based on the number of people in need) so that these funds are protected from Damascus' influence.

A decade of failure of the UN in Syria is more than enough to call into question the present interpretation of its mandate and guiding principles in modern conflicts, not only from a technical perspective but, more importantly, from a contextual humanitarian and human rights perspective. The application of this mandate in its current form, on the one hand, provides a legal framework for the provision of UN funding to a government engaged in a brutal civil war and committing war crimes and crimes against humanity against its people. On the other hand, it deprives millions of civilians and internally displaced persons of adequate and timely humanitarian assistance. It is time to stop Assad and other dictators from misusing international humanitarian funds to finance their atrocities and human rights violations.

The opinions expressed in this publication are those of the author.

**Center on International
Cooperation**
726 Broadway, Suite 543
New York, NY 10003

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