



OUT OF THE SHADOWS

Strengthening international humanitarian law and protecting humanitarian aid workers worldwide

In recent years, the number of people in need of humanitarian assistance worldwide has grown steadily. At the same time, the space for humanitarian organisations to support these people keeps shrinking. Humanitarian aid workers are increasingly becoming victims of targeted attacks, which have multiplied over the last 20 years. In 2019 alone, 277 serious incidents involving 483 humanitarian aid workers were documented.¹ This development affects all humanitarian actors, from United Nations (UN) organisations, to the Red Cross and Red Crescent Movement, to international, national, and local non-governmental organisations (NGOs). National and local aid workers are particularly exposed to the risks: Of the 483 people affected in 2019, 456 were national and 27 international aid workers.

The protection of humanitarian aid workers is a central concern for international humanitarian law and human rights. According to the Rome Statute of the International Criminal Court, for example, "intentionally directing attacks against personnel, [...] involved in a humanitarian assistance or peacekeeping mission [...]" amounts to a war crime in armed conflicts.² This was reaffirmed by the UN Security Council in 2003.³ In more recent resolutions, the UN Security Council has re-emphasised the importance of protecting humanitarian aid workers.⁴ During its

membership in the UN Security Council 2019-2020 and its Presidency of the Council of the European Union (EU) from July to December 2020, Germany has focused on strengthening international humanitarian law and protecting the space for humanitarian operations.

However, 2020 saw numerous reports of attacks on humanitarian aid workers. International humanitarian law and the humanitarian principles continue to be disregarded worldwide. Still, these rules and principles are there to guarantee the protection of the affected civilian population and humanitarian aid workers. Therefore, particular attention must be paid to the investigation of attacks against national and local humanitarian aid workers and the prosecution of perpetrators.

Increasing political pressure and implementing existing initiatives

All over the world, humanitarian aid workers ensure, at great personal risk, the delivery of humanitarian assistance to populations in need. It is the obligation of the international community to guarantee the protection of aid workers and take concrete steps to implement the existing resolutions and regulations of international humanitarian law to this end.

¹ Aid Worker Security Database (2020): ↘ [Major attacks on aid workers: Summary statistics](#)

² Article 8 (2) of the ↘ [Rome Statute of the International Criminal Court](#)

³ UN Security Council (2003): ↘ [Resolution 1502 \(2003\) on Protection of United Nations personnel, associated personnel and humanitarian personnel in conflict zones](#)

⁴ UN Security Council (2014): ↘ [Security Council resolution 2175 \(2014\) on protection of humanitarian personnel and UN and associated personnel in armed conflict](#) and UN Security Council (2016): ↘ [Security Council resolution 2286 \(2016\) on protection of the wounded and sick, medical personnel and humanitarian personnel in armed conflict.](#)

As one of the largest humanitarian donors, Germany has a particular responsibility. We welcome the "Humanitarian Call for Action"⁵ launched by Germany and France in 2019 as an international initiative to strengthen international humanitarian law. So far, 46 countries have endorsed this initiative. The Call for Action is an important step, but its impact on the protection of humanitarian aid workers has yet to unfold.

The Federal Government of Germany should:

- continue to systematically condemn all attacks on humanitarian aid workers and their infrastructure and promote the impartial and independent investigation and prosecution of these attacks;
 - pursue the implementation of the "Humanitarian Call for Action" and develop a dedicated work plan;
 - consider, together with France, the establishment of a Joint Commission. In this commission, the signatory States of the "Humanitarian Call for Action", national and international NGOs, international organisations, and experts should regularly exchange information on the state of implementation and best practices;
 - support efforts to improve knowledge of international humanitarian law and humanitarian principles. The Federal Government should promote more trainings for state and non-state actors, for example through the Training Centre of the International Committee of the Red Cross and, for non-state armed actors, via NGOs such as Geneva Call;
- intensify training components on international humanitarian law for state security actors within the enhancement initiative (Ertüchtigungsinitiative) and activities in the area of security sector reform; and
 - prevent the politicisation of humanitarian assistance, particularly in complex conflict situations, to minimise the risks for humanitarian aid workers. The 2013 recommendations on interaction between VENRO member organisations and the German Armed Forces⁶ may serve as a guideline. The visibility as donor in particularly sensitive conflict regions should be handled flexibly due to security risks.

Documenting all attacks against humanitarian aid workers and fighting against impunity

To date, there is no central, internationally recognised body for the systematic documentation of attacks against aid workers. Such a body could increase awareness of the situation of aid workers and the different risk factors and, thereby, contribute to better protection. For example, the risk level for local and international helpers differs greatly, and also gender aspects seem to play a role for the type of risk. Overall, international and local male workers have a considerable higher risk of falling victim to attacks, including being killed or abducted, than their female colleagues. With regard to attacks involving sexual violence, including rape, female workers are disproportionately affected.⁷ A central authority could add weight to the demands for holding the perpetrators accountable.

One of the greatest challenges in relation to attacks on humanitarian aid workers is the prosecution of the perpetrators. The international community

⁵ Federal Foreign Office of Germany (2019): [Humanitarian Call for Action](#)

⁶ VENRO (2015): [Recommendations on the interaction between VENRO member organisations and the German Armed Forces](#) (in German)

⁷ Aid Worker Security Report 2019 (updated): [Speakeable: Addressing sexual violence and gender-based risk in humanitarian aid](#)

needs to strengthen the capacities of existing international and national judicial mechanism necessary for an independent criminal prosecution in order to end the widespread impunity. Germany plays a pioneering role in international criminal prosecution, for example with regard to the principle of universal jurisdiction.⁸ This is reflected by the world's first trial on state torture in Syria at the Higher Regional Court in Koblenz. Germany should strive to uphold its reputation also regarding to the criminal prosecution of attacks on humanitarian aid workers.

The Federal Government of Germany should:

- push for the appointment of a Special Rapporteur for the protection of humanitarian aid workers at the UN. This office must be adequately equipped with financial and personnel resources and needs sufficient political backing. The Special Rapporteur should, in cooperation with the UN Office for the Coordination of Humanitarian Affairs, systematically document attacks on humanitarian aid workers and regularly report to relevant UN bodies, including on the status of criminal prosecution;
- exert political pressure on national governments that are unwilling to investigate attacks on humanitarian aid workers and to prosecute the perpetrators in their country. To this end, the Federal Government, together with European and international partners, should consider diplomatic and foreign policy measures. The Federal Government must ensure that the measures taken do not hinder the provision of humanitarian assistance;
- seek, jointly with other States, to refer cases of attacks on humanitarian aid workers to suitable

judicial mechanisms, for example to the International Criminal Court;

- enable the prosecution of attacks on humanitarian aid workers in Germany, in accordance with the principle of universal jurisdiction, and strengthen the capacities of German courts and authorities for this purpose; and
- provide practical assistance to affected humanitarian aid workers, regardless of their nationality. This includes access to psychosocial support, legal and financial assistance. In addition, humanitarian visas or visas for temporary resettlement of humanitarian aid workers who are in immediate danger should be issued by Germany. The Federal Government should coordinate closely with European partners and, in the medium term, strive to realise a European initiative based on the model of the EU Human Rights Defenders Mechanism⁹.

Measures to combat terrorism must not have negative impacts on humanitarian assistance

Efforts to combat terrorism nationally and internationally have been intensified in recent years. Numerous UN and EU resolutions as well as national laws are putting measures in place with the aim to curb terrorism. In the financial sector, banks are reacting to laws and regulations with more comprehensive strategies of risk aversion.¹⁰ Considering the diverse international and national regulations, there is often a lack of clear guidelines and of a common understanding of the existing regulations.

However, the tensions between counter-terrorism measures and humanitarian assistance are growing. Counter-terrorism measures are increasingly creat-

⁸ FIDH, ECCHR, REDRESS (2020): [Breaking Down Barriers. Access to Justice in Europe for Victims of International Crimes](#)

⁹ EU Human Rights Defenders Mechanism: [ProtectDefenders.eu](#)

¹⁰ VENRO (2020): [Preventing terrorist financing in the NPO sector: Measures to mitigate the risk of terrorist financing in the NPO sector in Germany and VENRO \(2019\): Still an exception or already the normal case? Collaborating with fragile states](#) (in German)

ing security and legal risks for humanitarian organisations and their staff. People working for a humanitarian organization in the Gaza Strip or in opposition-controlled areas in Syria may face the risk of criminal prosecution. Counter-terrorism measures also raise operational costs for relief operations. They not only restrict access to essential financial services, such as bank transfers, but also impede the access to vulnerable groups. Without exemptions for humanitarian operations, counter-terrorism measures are in contradiction with international humanitarian law and the humanitarian principles.

The Federal Government of Germany should:

- promote the systematic inclusion of humanitarian exemptions in relevant sanctions regimes and resolutions of the UN Security Council and the EU;
- advocate for the systematic monitoring, by the UN and the EU, of the effects of sanctions regimes on the civilian population and humanitarian operations. Feedback from NGOs on the humanitarian impact of sanctions needs to be taken into account;
- engage in dialogue, via the German missions abroad and together with the EU, with States whose national laws and sanctions regimes impair the provision of humanitarian assistance, and promote the inclusion of humanitarian exemptions. A prominent example is the US government;
- eliminate legal uncertainties regarding the application of sanctions and the obtaining of humanitarian exemptions, and clarify their expectations and regulations within its funding practice. To this end, the Federal Government should appoint specific contact persons for NGOs at the Federal Bank of Germany and the Federal Office of Economics and Export Control.

The Federal Government should establish a brief procedure for approving exemptions;

- publicly state that the Federal Government and its ministries will, in their funding practice relating to humanitarian operations, not demand a screening of beneficiaries nor the collection and transfer of personal data of the beneficiaries. The Federal Government should advocate for this position within the EU and the Good Humanitarian Donorship Initiative; and
- establish a regular tripartite dialogue between the government (Chancellery, Federal Foreign Office, Federal Ministry for Economic Cooperation and Development and Federal Financial Supervisory Authority), the banking association and VENRO. This dialogue should take place at management level and aim to avoid the obstruction of humanitarian operations.

With the year 2020, Germany's membership in the UN Security Council and its EU Council Presidency have ended. Strengthening international humanitarian law, protecting humanitarian aid workers, and designing counter-terrorism measures that do not impair the provision of vital humanitarian assistance remain essential tasks of the international community. We call on the Federal Government to continue to assume responsibility and to actively promote these issues at the international and European level.

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