

There is Still No Legal Barrier to UN Cross-Border Operations in Syria Without a UN Security Council Mandate

As the UN Secretary General stated in his [recent remarks](#) to the UN Security Council, humanitarian needs in Syria are at their highest since the conflict began more than a decade ago, with 4.1M people continuing to rely upon lifesaving UN-coordinated humanitarian aid provided across the Syria/Türkiye border, presently under cover of an unprecedented Security Council mandate for humanitarian aid, which would ordinarily be a matter for the UN Secretariat.

In 2014, that Security Council mandate may have been politically and logistically necessary. However, as a coalition of leading international lawyers and legal experts ([many of whom affirmed that a Security Council resolution is legally unnecessary for UN cross-border aid operations in 2014](#)) we adjudge that today it is just one route by which to legalise the continuation of cross-border aid in Syria.

First, through the Syrian Government's sovereign decision in ratifying them, the Syrian conflict is governed by Common Article III to the Geneva Conventions of 1949, which also represents customary international law, and allows access negotiations to take place between impartial humanitarian bodies and all "*Parties to the conflict*", including those outside of the Government.

Second, continuing UN aid coordination across borders is lawful for States and UN Agencies under Public International Law more generally, as the International Court of Justice, the UN's principal legal organ, has authoritatively confirmed that "*there can be no doubt that the provision of strictly humanitarian aid to persons or forces in another country, whatever their political affiliations or objectives, cannot be regarded as unlawful intervention, or as in any other way contrary to international law.*"

Third, we note that a refusal to permit cross-border aid is unlawful where it is arbitrary, such as where that refusal breaches international law, leads to discrimination (e.g., according to race, gender, political opinion or religion) among those in need, goes beyond what is absolutely necessary to the achievement of a purported legitimate aim, or may lead to lack of predictability. In the face of such refusals, arguments to continue cross-border aid may arise on the basis that it is necessary to counter the Syrian Government's arbitrary denials so as to prevent distress, strife, and starvation for millions.

Finally, and in any event, we stress that NGOs are not regulated by, and can therefore continue to provide cross-border assistance under, relevant rules of Public International Law, and States and UN Agencies may provide indirect assistance to them in order to do so, as the threshold for attributing the conduct of private bodies to States or International Organisations under international law is extremely high.

Overly cautious interpretations of international law should not risk the lives of millions who continue to rely on cross-border aid in the north and north-west, nor should they be allowed to change and politicise the landscape of International Humanitarian Law as it stands today. Not doing so risks creating a historic, dangerous precedent for millions of people in Syria and in conflict areas around the world. As many of us did in 2014, we again urge the UN to apply International Humanitarian Law so that it enables, rather than prevents, life-saving assistance reaching those in need.

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