

Counterterrorism and Humanitarian Impartiality



Independent review of IRC activities in Afghanistan,
Somalia, and northwest Syria

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Table of Contents

Introduction	1
Key Findings.....	2
Recommendations.....	4
The Counter Terrorism Landscape.....	5
Counter Terrorism Issues Affecting IRC’s Impartiality	6
Engagement policy and practice.....	6
DTG ideology and conduct.....	6
Host government attitude and policy.....	7
Impact on partnerships: donor vetting and compliance risk.....	7
Beneficiary screening requirements.....	9
Financial sector controls	9
Impartiality in Practice	11
The role of impartiality in program prioritization.....	11
Barriers to impartiality in DTG-controlled areas.....	12
Enablers of impartiality in DTG-controlled areas	13
How IRC responds to “impartiality gaps” in DTG-controlled areas	15
Conclusion	16
Annex: Contents of Project Risk Management Annexes	17

About this report

This is a condensed version of an independent study submitted to IRC by consultant Jason Phillips in June 2021 titled "Counter Terrorism and Impartiality: A Review of IRC Operations in Afghanistan, Somalia and North West Syria." It has been edited and formatted by IRC. The research was conducted in 2018-2020, and conditions and IRC activities have likely changed since then in the countries under discussion.

Cover image

IRC hygiene promotor provides training and information about COVID-19 to women, men and children in Afghanistan, to ensure they have accurate information about the disease and know how to protect themselves and their loved ones.

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Introduction

Counter terrorism (CT) laws and regulations challenge core humanitarian principles.¹ Their effect on impartiality deserves special attention, as impartiality is a defining feature of humanitarian action: activities that are not impartial might not be considered 'humanitarian' at all.²

CT measures impact impartiality if they prevent people from receiving assistance commensurate with need. This may happen when agencies avoid working in areas controlled by designated terrorist groups (DTGs), reduce their levels of service, modify the services they provide, or restrict their engagement with DTGs in ways that diminish their acceptance and access.³

This report shows how CT restrictions affected IRC's approach to impartial humanitarian action through case studies of recent practice (2018-2020) in three countries with significant CT restrictions: Somalia, Afghanistan, and non-state controlled areas of north-west Syria (NWS).

These were chosen because they face similar CT legal environments, but IRC has different operational presence and programmatic

responses in each. In NWS, nearly all of IRC's work was conducted in areas directly controlled or very strongly influenced by Hay'at Tahrir Al-Sham (HTS). In Afghanistan, about 60% of activities were in locations contested or fully controlled by Taliban. In contrast, no IRC programming in Somalia was in areas under fully Al-Shabab control. What explains these differences, and what can be learned from different approaches?

This review provides a mix of expected and unexpected results. It validates prior literature with concrete examples of how CT measures have constrained or challenged the humanitarian principle of impartiality. But it does not show that CT measures prohibit principled aid in all circumstances. IRC has found ways to successfully work within the dense web of counter terrorism measures in two of three contexts studied, delivering aid to some of the countries' neediest populations in areas under the direct control of DTGs in both Afghanistan and NWS. It also shows that other features play a large, and in some cases larger, role in determining impartiality. Some of these are external factors, but others are internal factors that IRC has power to address.

Impartiality

Impartial assistance "must be carried out on the basis of need alone, giving priority to the most urgent cases of distress and making no distinctions on the basis of nationality, race, gender, religious beliefs, class, or political opinions."⁴ This has two elements: **non-discrimination** and **proportionality**.

- **Non-discrimination** means that assistance must be provided solely based on an individual's needs, without any form of discrimination.
- **Proportionality** requires that limited resources be prioritized for those in most distress.⁵

While impartiality is often associated with individual non-discrimination, it also addresses resource allocation at the community level: failure to provide a proportional response to people in need because they are hard to reach is, in effect, discriminating against them due to their location.

Along with humanity, impartiality is a 'substantive' principle at the top of the hierarchy of humanitarian ethics. International Humanitarian Law extends its privileges to impartial humanitarian action.

Key Findings

- CT law and policy burdened IRC's ability to provide impartial assistance, but it was not a decisive factor precluding assistance.** In Afghanistan and NWS, CT restrictions complicated, but did not prevent, the delivery of principled aid in areas controlled by DTGs. In Somalia, CT restrictions were not the decisive factor in decisions to avoid working with populations in areas fully controlled by Al Shabab.
- CT risks vary by location, despite similar legal regimes.** In both NWS and Somalia, the impact of CT measures on humanitarian access and operations has been an explicit item on the agenda of the humanitarian community, but in Afghanistan it operates more quietly in the background of access discussions. Bank de-risking does not seem to be a prominent part of the counter-terrorism discussion in either Somalia or Afghanistan but is considered an important dimension of the operating environment in NWS. Donor requirements to screen beneficiaries and to vet partners has arisen in both Afghanistan and NWS but does not feature as a component (at present) of IRC's funding context in Somalia.
- The most consistently identified impact of CT restrictions is "delay."** Delays arose in many areas: obtaining general or specific licenses (i.e. humanitarian exemptions); timeliness of donor responses; timeliness of vetting requests; negotiations with DTGs; banking partners' processing of financial transfers; work required to design risk-managed programs; internal due diligence procedures for staff, partners and vendors. Although they are not absolute bars to assistance, they nevertheless impede impartial action.
- When judged by their effort, the three programs showed different levels of adherence to impartiality.** Impartiality is a guiding principle, and an organization's impartiality is judged by its efforts rather than its outcomes: was adequate attention and effort paid to identifying and overcoming barriers, and were any compromises made carefully and transparently? In Somalia, IRC has avoided work in areas fully controlled by Al Shabab; in NWS, it has avoided work in Government of Syria controlled territory; and in Afghanistan, it has expanded its access in areas near existing field offices, but decided not to respond in areas that would require new field offices. All could be considered "impartiality gaps," but they were not equally acknowledged as such. In Syria, this is seen as a gap that it explicitly aims to overcome. In Afghanistan, this was the outcome of an intentional decision that explicitly recognized its tradeoffs. In Somalia, there was little explicit acknowledgement that this is a gap in IRC's programming that it should aim to address.
- Host state law and policy can pose greater challenges to impartiality than CT measures from donors and headquarters states or from DTGs themselves.** By some accounts, the extent to which the host or neighboring governments interfered with IRC programs, attempted to divert or tax aid, or otherwise erected administrative barriers challenging the impartiality of the IRC's programs was as great or greater than that exerted by DTGs. In NWS, for example, humanitarian space may, ironically, be greater in HTS controlled areas than in either Government of Syria or Government of Turkey controlled locations.

- **IRC's understanding of CT regulations, risks, and permissible forms of engagement with DTGs leaves room for improvement.** Staff and partners openly indicated their confusion, uncertainty, and apprehension about whether their or IRC's actions, such as meeting face to face with representatives of DTGs or providing assistance to family members with perceived affiliations to designated terrorists, was permissible. This places IRC staff, the organization, and its partners at risk. Even in places where IRC has shown an ability to deliver assistance in DTG controlled areas in Afghanistan and NWS, this gap in knowledge and support acts as a subtle deterrent to a more impartial response.
- **IRC is experienced with practices that enable impartial action in contexts with CT restrictions such as:**
 - » A risk appetite for engaging with all parties to a conflict, including DTGs;
 - » An explicit humanitarian access strategy, with a well-resourced access team;
 - » A clear set of "redlines" regarding interference in IRC programs that could compromise counter terrorism regulations; clear communication of these during engagement; active monitoring of these; nuanced consequences for DTGs when lines are crossed, such that suspension of activities is not the only response;
 - » Cooperation in the development and embrace of Joint Operational Procedures (JOPs) or similar community standards;
 - » A willingness to defend impartial action against donor pressures;
 - » Operational and programmatic capacity for emergency response;
 - » Highly localized program teams and investment over time in relationships that build acceptance, including in areas controlled by DTGs; and
 - » A capacity for self-reflection about the continuing alignment of IRC's programs to the changing need profile in the country, and to push the agency when necessary.

Recommendations

1) Provide guidance on CT risk management, compliance, and operations in areas controlled by DTGs, and disseminate it through training for staff and partners.

This should include discussion of limits, if any, to contact with DTGs; what, if anything, is considered off bounds in access negotiation conversations; what “material support” means; and what internal redlines IRC has adopted to mitigate diversion and interference in its programs. IRC’s standard package of partner support should include more robust discussion with IRC’s partners on any counter terrorism flow down provisions contained within IRC-issued sub-awards, as well as training and support for compliance with them.

2) Build institutional legal and operational expertise to support staff as they navigate the complexities of working in countries where DTGs operate.

This on-call expertise could be structured in different ways: the creation of a counter-terrorism focal point within existing IRC structures; the creation of a bespoke expert position; or via a potential partnership with another organization or academic institution.

3) Assess IRC’s current approach to engagement with DTGs to see if there is any value in higher-level institutional involvement.

IRC outsources senior level DTG engagement to UN OCHA and relies solely on local/national staff to be interlocutors with DTGs in operating areas. This may inadvertently limit opportunities for IRC to expand access in certain contexts or could entail risk transfer to certain cadres of staff

that the agency may wish to mitigate. Other INGOs, for example, are reported to have engaged with Al Shabab and the Taliban at more senior levels, and these approaches should be considered.

4) Clarify the organization’s stance on beneficiary and partner screening and vetting.

This should entail a review of IRC’s current practice to identify places other than Syria where IRC is supporting donor vetting of IRC’s partners, and the extent to which the measure is an impediment to IRC’s goal of strengthening its partnerships with local actors.

5) Expand knowledge of and competence in host country CT regulations.

IRC at country and regional level should develop greater awareness of the local counter terrorism legal context and include such knowledge in any training for staff who are subject to such laws.

6) Clarify how much of a priority should be placed on pursuing humanitarian exemptions within IRC’s global advocacy agenda.

There may be differences of opinion across the agency regarding the efficacy of blanket humanitarian exemptions and the potential for donor advocacy success on this topic which are worthwhile to examine as a starting point. Consultation with peer agencies actively involved in such advocacy, such as NRC and Diakonia, and with IRC country programs where inter-agency exemptions advocacy is ongoing (such as Somalia and Syria) would be valuable.

The Counter Terrorism Landscape

Humanitarians face many CT measures from a variety of sources, and often with complicated requirements. Humanitarians trying to navigate CT restrictions are “caught in an evolving web... of highly complex and confusing international, regional and national laws.”⁶ Seeking clarity within this web is often frustrating. One respondent from Afghanistan said: “Trying to get an answer from an Embassy about which sanctions apply is hard, no one is 100% sure about how it will affect humanitarians, even from the governments that enacted the sanctions.”

Afghanistan, Somalia and NWS all have DTGs who are active in or directly control territory. All three locations are defined by the USAID Bureau for Humanitarian Assistance (BHA) as “high-risk” environments, where it applies heightened risk mitigation requirements in its proposals.⁷ Other donors have similar requirements.

There are important differences in how groups are treated in law and policy. In each of these

countries there are multiple DTGs that states might treat differently. This study focuses on the most significant DTG in each environment: the Taliban in Afghanistan; Al Shabab in Somalia; and HTS in NWS. Even between these high-profile DTGs, states may designate them and/or their members differently, with different legal consequences.⁸ Donors may have different expectations for risk management, due diligence, or compliance. One stakeholder from Afghanistan summarized this problem well: “What does an NGO do if different donors have different counter terrorism stances towards actors on the ground? An NGO could have funding from a donor that has designated the Taliban a terrorist, one that hasn’t but has troops on the ground and may be very sensitive to any interactions and potential support, and one that is actively pushing for more engagement in Taliban areas.”

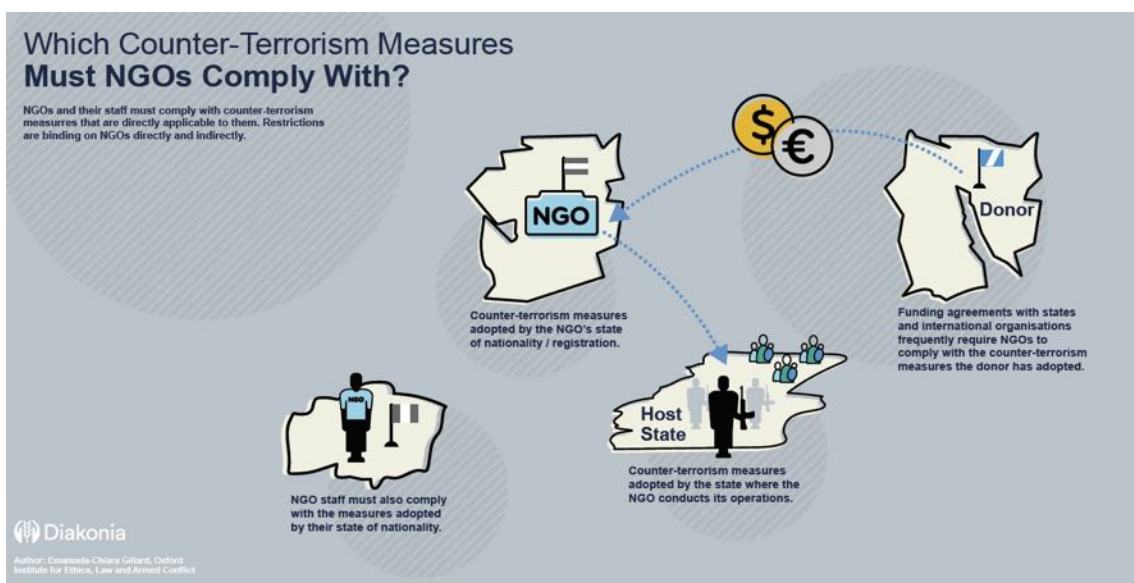


Diagram of sources of CT measures, produced by Diakonia Lebanon as part of their online webinar series on Syrian CT measures. This diagram should include another source: neighboring states that host cross-border operations such as Turkey.

Counter Terrorism Issues Affecting IRC's Impartiality

Engagement policy and practice

Restrictions on engagement

There is a persistent misconception that donor and home country CT laws prohibits contact with DTGs.⁹ According to one source, in the last ten years there has only been one context in which funding agreements explicitly included a bar on contact with a DTG, in a US award to an organization working in Gaza, Palestinian Territories.¹⁰ There may be concerns about reputational risk, particularly if the engagement is co-opted by DTGs to bolster their legitimacy, but contact for access negotiation is not prohibited by donor or headquarters state CT measures.

Some IRC stakeholders were unsure about this, however. Such concerns were most pronounced in Somalia, part of a general fear about any form of engagement with Al Shabab. Uncertainty existed in Afghanistan and NWS as well, although this has not prevented IRC from humanitarian engagement with DTGs. One stakeholder in Afghanistan wondered, "obviously we don't give [the Taliban] money, but is talking to them giving them recognition, a voice? I have heard that if this ended up in court, some prosecutor could perceive it as material support."

Engagement strategy

IRC's approach to engagement with DTGs varied across the three countries. This included differences in willingness, approach, staffing and organization. While conditions

vary between contexts, and so engagement practices will also differ, there is also a notable difference in whether this task has received formal strategic attention and resourcing,

In Syria and Afghanistan, IRC has made a conscious and proactive investment in building highly skilled humanitarian access teams and has elevated humanitarian access negotiation on the strategic agenda of the country program. In contrast, Somalia has neither a designated humanitarian access strategy nor a humanitarian access team: "We don't have any strategy to engage or negotiate with Al Shabab at all," reported one Somalia stakeholder. "There is no culture of access... [IRC] is only doing road access," observed another. In the absence of a humanitarian access strategy, and resources to invest in humanitarian access negotiation, where, when and however possible, it is unlikely that an organization would be able to make the most of any opportunities for access that do arise.

Effective practices for engagement, as identified by stakeholders, are discussed on page 13 below, under *Enablers of Impartiality in DTG-controlled areas*.

DTG ideology and conduct

Humanitarian access negotiation relies on at least minimal interest in having humanitarian aid provided to the populations of concern. Some DTGs may be so resistant to aid provision by foreign NGOs that they are, in effect, impervious to direct humanitarian

Humanitarian Engagement Strategies

	Approach to engagement with DTGs	Humanitarian access structure
Afghanistan	Hybrid: direct and intermediated	Separate Humanitarian Access Team (HAT) reporting to CD
Somalia	None (ad hoc intermediated)	None (Access roles integrated into certain SMT and Field Coordinator positions)
NW Syria	Hybrid: quasi-direct and intermediated	Humanitarian Access Team (HAT) reporting to Access and Security Coordinator; shared negotiation responsibilities with Area Coordinator

engagement with IRC. This was how ISIS and its affiliates were characterized. IRC stakeholders responded “there is no basis for talking to [IS-Khorasan in Afghanistan]... IS has a counter-humanitarian ideology, their global statement has made NGOs legitimate targets.¹¹ We don't want to and haven't tried to engage them, and they have refused to engage with humanitarian NGOs.” In NWS, staff said of ISIL, “We wouldn't engage them as their ideology is so hostile to NGOs.” Al Shabab's open hostility towards and suspicion of humanitarian aid and its Western providers is well documented.¹² IRC staff commented “areas held by Al Shabab are obviously off limit, that's a given... staff [are] petrified of providing direct services in those areas.”

While these concerns are real, it is worth examining whether the assessments of DTG attitudes are correct. Some humanitarian agencies have been able to negotiate access with Al Shabab. IRC historically provided humanitarian aid in territory controlled by ISIS in North East Syria, finding a way to gain access and operate in a context fraught with high risks of violence, high potential for aid diversion to DTGs, and hostility towards Western humanitarian agencies. None of the IRC stakeholders interviewed for this report referenced this comparative experience, either as a way of reflexively problematizing IRC's current views on the non-negotiability of certain DTGs, or to explain how current contexts sufficiently differ from those.

In comparison to ISIS affiliates and Al Shabab, both HTS and the Taliban were characterized as actively interested in and increasingly welcoming to humanitarian aid and aid providers like IRC. HTS and the Taliban see clear political and financial interest in humanitarian assistance delivery in areas they control. That attitude has opened space for IRC and other humanitarian organizations to negotiate access and provide aid in ways that could be argued to increase the impartiality of their response. Both DTGs were described as having developed formalized ways of engaging with the humanitarian community.

Host government attitude and policy

Host government attitudes were frequently cited as a potential barrier to engagement with DTGs. In all three countries stakeholders identified government suspicion of and outright hostility directed towards IRC and other humanitarian staff who were perceived to be “aiding terrorists” or their enemies. National staff are on the front lines of humanitarian negotiation, and they are most seriously confronted by this challenge. One of IRC's Syrian partners was adamant that there was no way it could work in SDF¹³ controlled parts of Syria due to the Government of Turkey's characterization of that group as terrorists. Multiple respondents in Afghanistan commented upon the routine and heavy surveillance, and periodic questioning, that IRC staff working in Taliban controlled areas are subjected to by the Afghan intelligence service.

Impact on partnerships: donor vetting and compliance risk

Collaboration with local NGOs may be essential to serve people most in need, wherever they are. In Somalia, for example, stakeholders indicated that often only local civil society can deliver humanitarian aid in areas controlled by Al Shabab. If counterterrorism measures prevent effective local partnerships, they may interfere with impartiality. The case studies validated this concern in principle, but also showed different responses to them.

Donor vetting

In Afghanistan, IRC had no partnerships at the time of the study, and CT restrictions were cited as a barrier. One reason is donor vetting of partners. USAID in Afghanistan requires that recipients submit a package of information about key individuals in sub-awards, to be vetted by USAID. This may undermine INGOs' perception of neutrality, potentially losing the trust of partners,

jeopardizing humanitarian organizations' ability to access affected communities, and endangering their personnel.¹⁴ For some time, IRC Afghanistan refused to accept funding with this requirement. To some stakeholders, "partner vetting has been a big barrier to local partnership... when your largest donor is the US, it's hard to build civil society if you can't use this pot of money." Senior IRC staff stated that this is no longer a program redline, and they are exploring partnerships more actively.

In Syria, IRC's response to these same CT measures was different. Local partnership is a core of IRC's strategy: 80% of its health assistance is delivered in partnership. USAID awards in Syria have a similar vetting requirement as in Afghanistan,¹⁵ but there have been "no issues with IRC's partners in NWS and no objection to PVS from our own IRC staff" according to one interviewee. "We explained what vetting is, that information would be submitted to the US Government, and that they don't have to agree, but if they don't it could result in removal from the award" noted another. IRC partners interviewed for this study also did not express any concern about vetting, one noting that it already does the same thing with other donors.

Compliance risk

A second way that CT measures were seen to impede partnership in Afghanistan was through compliance risk. CT risk management requires complex fiduciary and other controls, and partners may have difficulty meeting those expectations. This in turn increases IRC's own risk. "Local partners will create a headache for us" stated one stakeholder, "there are challenges with due diligence in general, counter terrorism requirements are just additional checks." Another said, "I know how much we struggle with compliance on US grants, the thought of pushing this onto local partners, I would feel [they] don't have the capacity to handle US regulations."

IRC's response to this is different in NWS. Neither IRC staff nor its partners reported much, if any, support to partners in complying

with and navigating CT measures, including the CT restrictions that IRC puts in its own sub-agreements. One interviewee noted, "IRC and I don't understand some of the clauses. We don't understand as an organization what these requirements are. All agreements contain provisions binding the partner to US counter terrorism provisions requiring that they apply anti-terrorism checks to staff, suppliers and [third-tier] sub-partners. Yet partners may not have access to the required databases to do this, and IRC has been prevented from doing this on a partner's behalf [by other sections of IRC administration]. We require it, the partner can't do it, and we can't help them." In the words of one of IRC's Syrian partners, the absence of any counter terrorism specific training within the partnership support relationship with IRC was "not healthy and not right."

In Somalia, IRC had a limited engagement with partners, although it is in the process of expanding this. CT measures are not seen as a barrier to partnership. "There are no clear counter terrorism barriers to local NGO partnership, we just haven't taken the steps," one stakeholder reflected, "there are a lot of partners in Somalia, stellar ones who partner with everyone and can pick and choose." As they explore partnerships, however, they are aware of possible CT risks. One stakeholder noted a past experience where the program had to terminate a partnership with a local organization when a different donor voiced concerns about their connections to terrorism. Staff also voiced an ethical concern about relying on partners as a way of avoiding security risks: if it was too dangerous for IRC to work in such situations it would be inappropriate to "put other organizations in harm's way."

IRC's approach to partnerships

This variety of experience reported by staff and partners points to areas for improvement in the quality and equality of IRC's partnerships. Importantly, this does not refer only to more support from IRC to partners, it also includes better learning by IRC from and

about its partners. Partnerships with local organizations appear to be viewed through the lens of risk: security risks outsourced to the partner, and compliance risks created by the partner.

Comments from IRC's Syrian partners should prompt a reconsideration of this. They have sophisticated strategies for operating among and managing the risk of diversion to DTGs, as well as a shared commitment to ensuring humanitarian aid under their control does not contribute to terrorism. IRC could learn from its partners about ways to mitigate CT compliance risk, enhancing the quality of its own directly delivered services. Partners consulted for this research expressed an interest and willingness to share experiences in this regard. This can be paired with IRC support on navigating regulatory requirements and fiduciary control measures.

Beneficiary screening requirements

Beneficiary screening directly challenges the principle of impartiality. By restricting eligibility for humanitarian assistance based on an alleged affiliation with a DTG, beneficiary screening strikes at impartiality's core principle of non-discrimination. Humanitarian organizations have opposed screening ultimate beneficiaries who have otherwise met eligibility criteria for humanitarian assistance. IRC has documented its commitment to non-discrimination in an internal program policy statement.¹⁶ Many humanitarian donors share this position¹⁷ but some do not.

In Afghanistan IRC was presented with a demand to screen beneficiaries in response to a concept note it submitted to a multi-donor fund in April 2020. A donor required screening of cash recipients, and refused to change its position, leading IRC to change the program design to avoid the requirement; the program was not approved as IRC did not resubmit with this donor. In Syria, a consortium that IRC is part of was required by the donor to screen cash recipients (IRC was not involved in that activity of the consortium), and

when that requirement would not be waived the consortium returned its 14 million Euro funding.

There are two IRC practices that may cross this principled line. First, in NWS the Humanitarian Access Team may review final beneficiary lists to flag and remove names of known fighters. Internal documents refer to "members of armed groups," rather than DTGs, framing this in terms of IHL rather than CT law; and it is based on community information rather than external sanction lists. But IRC describes this externally as a CT risk mitigation measure: IRC "performs beneficiary list vetting, as an additional effort, to identify any possible high-profile names from sanctioned groups or affiliates within selected beneficiaries."¹⁸ In the opinion of a stakeholder, "IRC is actually doing more screening than is required to establish humanitarian need [by] assessing beneficiary affiliation... From a legal and humanitarian perspective, needs should be the beginning and the end." A similar potential conflict exists in IRC Somalia's OFDA risk mitigation plan. It states that IRC staff recruited from local communities "are able to ensure services are directed to eligible beneficiaries and not sanctioned groups or their members," implying some form of screening. This appears to also be applied to medical programs, where IRC states that it "will implement health interventions with strict attention to the fact that services will only be provided to eligible targeted beneficiaries and not members of any sanctioned group(s)."¹⁹

The second practice has to do with the organization's finance policy on cash grants for business development programs. One respondent said that IRC screens recipients of cash payments above a certain dollar value threshold. If this was a correct statement of IRC practice, then it is also a conflict with the principle of non-discrimination.

Financial sector controls

These arise in two areas, bank de-risking and the regulation of informal money transfer

agents, both of which can severely limit humanitarians' financial operations.

Bank de-risking

Bank de-risking occurs when banks deny or delay the transfer of humanitarian agency funds to comply with anti-money laundering and CT regulations. Syria is one of the most frequently cited environments where bank de-risking impacted humanitarian operations, leading NGOs to cease operations, alter the locations where they work, or change their preferred modality of aid delivery.²⁰

These impacts have not yet affected IRC. In neither Somalia nor Afghanistan was bank de-risking cited as a factor shaping IRC's ability to operate in the country, where it worked, who it served, or which programs it was able to implement. In NWS, bank de-risking was cited as a challenge that did not rise to the levels where it was affecting IRC's ability to act in an impartial fashion. Multiple stakeholders referred to delays in processing bank transfers to IRC accounts in Turkey, Iraq or Lebanon any time the word "Syria" came up in the transfer documentation. But IRC has become adept at responding to these recurrent requests, and in most cases payments are delayed by only a few days.

Regulation of cash agents

Regulation of financial services providers have severely impacted some cash operations. IRC's NWS operations are completely dependent on the use of hawalas (informal money transfer agents): everything from paying Syrian staff salaries to local procurement to cash assistance distribution relies on the ability of hawalas to operate in NWS and IRC to be able to partner with them. IRC has established detailed standard operating procedures to ensure control over its cash operations which engage hawalas, including rigorous due diligence procedures that screen them in accordance with IRC's ATC policy and compliance with a USAID vetting requirement.²¹ But the number of hawala agents appearing on sanction lists or donor vetting lists has increased, leading to fewer entities with which IRC can do business. This has effectively left IRC with a single cash transfer partner in NWS, a situation of great risk. IRC Somalia's recent move away from the use of hawalas "was not a response to counter terrorism concerns, but a progression of available technology that is more efficient and keeps staff and beneficiaries [safer]" than the physical cash distributions that preceded the shift.

Impartiality in Practice

Impartiality is a goal that humanitarian action should aim for in the context of other constraints and commitments. An organization shows commitment to its principles not by having “perfect” results, but by always trying to achieve them even when it is difficult. An assessment of IRC’s impartiality therefore depends on an evaluation of its effort more than measuring its outcome: Is IRC aiming for impartiality? Does IRC recognize when it has “impartiality gaps”? What are the barriers and enablers to impartial action? How does CT influence impartiality?

The role of impartiality in program prioritization

IRC staff consistently discussed “responding to need” as a primary goal. But in practice there was a range of ways that “need” was understood. In some cases this can lead to responses that may be less proportional or non-discriminatory.

- **Scale.** In severe humanitarian crises, it can be difficult to know what the greatest need is. “All of Afghanistan is in need... all needs seem to be a priority,” observed one stakeholder. Another noted “we could be everywhere.” In these contexts, programs may aim to serve the greatest numbers of people in need even if they might not have the most severe needs.
- **Documented needs.** The desire to be “needs based” sometimes leads agencies to respond only where needs have been documented, leaving unassessed locations simply off the response radar. This is the inverse of the “inaccessibility” factor below, where it is assumed that hard to reach places have needs that are not addressed. Neither assumption is correct. “I doubt we know what the needs are” in Al Shabab areas was a refrain heard over and over and echoed in

Afghanistan about some Taliban controlled areas.

- **Acute circumstances.** In Afghanistan and Syria, populations in contested areas were considered needier than those in uncontested areas. This triggers needs assessments in those locations, which document those needs without necessarily demonstrating that needs are greater than in other areas.
- **Service gaps.** The absence of other humanitarian actors was often used as a proxy for greater imputed need. Stakeholders in all three countries routinely referenced a drive for IRC to be present in “underserved” places. In Afghanistan, presence in places where there were few other international actors, such as in certain Taliban controlled areas, was seen as evidence of IRC’s commitment to being where greatest needs were. This also featured in IRC NWS’ decisions on where to expand into GOTCA areas in Northern Aleppo. While the absence of other humanitarian actors may signal that a population’s needs are unmet, this should not be assumed, but empirically verified.
- **Inaccessibility.** One contributor to service gaps in inaccessibility, and in both Somalia and Afghanistan the community has generated detailed maps of “hard to reach” (HTR) areas. Stakeholders felt this was useful to help guide humanitarian decision making but did not necessarily equate with greatest needs. In Somalia, the large number of IDPs in government controlled urban areas are often cited as some of the most vulnerable. Some Afghans and Somalis who lived under both DTG and government control have reported preferring the former in terms of

safety, rule of law, and access to livelihoods.

- **Client responsiveness.** Stakeholders often highlighted responsiveness to the preferences of the population as an indicator of IRC's alignment with needs. Cash programming was frequently identified as one of the best ways to improve impartiality as it allows beneficiaries to meet the needs they prioritize themselves. All three countries are using cash programming and expanding it where they can, despite it being an attractive target for diversion and generating close donor scrutiny from a counter terrorism lens.
- **IRC "mandate" and priorities.** IRC has organizational priorities, driven in part by its sense of its competency and the types of issues it wants to work on. This may replace the impartiality question of "who is most in need, and what do they need?" with the question of "who needs what IRC is able to provide?" Some staff in NWS felt that IRC's programs could be more responsive to client-identified needs, and that outcome priorities identified in the current SAP might not fully align with a client centered view of greatest need.

Barriers to impartiality in DTG-controlled areas

CT measures were rarely mentioned as a key barrier to impartiality in any of the countries. CT restrictions impacted the IRC's *overall* effectiveness in each country, without directly affecting *where and to whom* activities were directed. One Somalia staff member said "we think about counter terrorism regularly," but the main issues that came to mind were donor compliance and perceived limitations on procurement, not their influence on strategic decisions about how to best meet needs in the country.

Respondents in all three countries systematically raised issues other than counter terrorism as greater barriers to

impartiality. Some of these may overlap with CT risks, such as insecurity. But in most cases respondents were able to distinguish those from CT, and they cited other factors as more impactful. As one Somalia stakeholder said, "It would take a lot of resources to set up another location, but we haven't even gotten to the point where we've talked about it, let alone considered the risks of working in Al Shabab areas in terms of counter terrorism concerns."

- **Insecurity.** Insecurity was the most significant barrier to IRC's impartiality in all three areas. A Somalia stakeholder noted "the main reason why we can't access hard to reach areas is insecurity, we have opted to focus on easier access areas." One Afghanistan stakeholder pointed with great pride to IRC's ability to stay and deliver assistance in Lashkar Gah, Helmand Province, during a recent outbreak of fighting between the Taliban and the Afghan armed forces, noting that active hostilities are often the biggest impediment to humanitarian aid delivery.
- **Effort to start new operations.** In both Somalia and Afghanistan existing country strategies were largely focused on maintaining presence within their existing areas of operation. The effort and time that is required to negotiate access with local authorities, including DTGs, and build community acceptance to enable safe and sustained programming was called out as a main barrier to expansion into new areas where IRC had not previously worked. Donors contribute to this by underfunding startup and engagement costs: "There is a push from donors like ECHO to work in rural areas" of Afghanistan commented one stakeholder, "but they won't pay for access or compliance teams and want 70% to go to program costs."
- **Program strategy inertia.** Related to operational cost is the issue of program path dependence. "We are stable and satisfied with our donor portfolio," noted a Somalia stakeholder, "I don't think this has

to do with counter terrorism concerns... The key reason why IRC is not working in Al Shabab areas is ease: we have become... complacent in our current footprint." Staff in all three countries identified the new IRC Strategy 100 as an opportunity to take a fresh look at IRC's existing footprint and recalibrate it towards better alignment with existing and projected needs in the country.

- **Donor policy.** Some donors discourage working in DTG areas, either explicitly or by virtue of their program policies. These are policy signals that go beyond any explicit prohibitions of CT measures. A frequent sentiment was that IRC would be more amenable to working in DTG controlled areas regardless of CT restrictions, if IRC had more funding that flexible and not tied to donor political priorities, and had more of a "green light" from its principal donors. On a more cynical note, one stakeholder observed that "IRC is mainly led by donor calls, not by needs."

Enablers of impartiality in DTG-controlled areas

Respondents also presented a range of factors that allow IRC to pursue impartial aid despite CT measures.

Humanitarian engagement capacity

Stakeholders in both Afghanistan and NWS systematically identified the existence of a formal and well-resourced humanitarian access strategy as a critical component allowing them to operate in DTG controlled areas and expand IRC's reach to those most in need in areas they control.

Staff in Afghanistan and NWS reported certain elements as important for the effectiveness of their access approaches:

Low Profile:

- Negotiations were done at "the lowest possible level" in the areas of IRC

operations. Both countries have designated Humanitarian Access Teams (HATs) responsible for day-to-day engagement with communities and DTG representatives in specific geographical areas.

- Access negotiations with DTGs were undertaken by national staff to limit visibility and the risk that engagement will legitimate DTGs.
- The most senior members of IRC staff were not involved in access negotiations. This allows frontline negotiators to deflect certain issues and create negotiation space.

Localized engagement:

- Access officers are hired from within the local communities that IRC serves.

Intermediation:

- **By communities:** In both Afghanistan and NWS, IRC works with community members as partners in engagement with DTGs. Access problems were more likely in areas where the DTG is considered "foreign": as one Somalia stakeholder remarked, "Al-Shabab doesn't affiliate to any clan, so we have no clan protection" if IRC were to work in areas they controlled.
- **By the UN:** IRC relies on UN OCHA to undertake humanitarian negotiations with senior DTG representatives outside the country. This is true both with respect to Syria and Afghanistan. OCHA was also seen as the appropriate place to escalate problems that might affect the broader humanitarian community.

Talking, not signing:

- Both HTS and the Taliban have increased demands for NGO registration, MOUs, or other forms of official approval. In Syria, IRC manages reputational risk by not countersigning the "non-objection" letters that they negotiate with the HTS-linked Syrian Salvation Government (SSG). In Afghanistan, the Humanitarian Access Group was advising NGOs not to sign the Taliban registration form.

Clear communication of redlines and defense of them:

- In both Afghanistan and NWS, IRC stakeholders stressed the importance of communicating clear redlines and their consequences as part of access negotiations with DTGs. Zero tolerance for taxation of IRC programs or assistance provided to beneficiaries, or interference in beneficiary identification and selection, were two such redlines.²² The establishment, communication, and enforcement of these redlines was an explicit part of IRC's risk mitigation strategy to comply with counter terrorism measures by ensuring IRC assistance does not materially benefit any sanctioned group.²³ In both countries, IRC experienced multiple instances of attempted breaches of these redlines by DTGs, leading IRC to temporarily suspend programs until the demands were withdrawn or to relocate programs to other communities if negotiation was unsuccessful. These incidents and IRC's responses to them were communicated to IRC's donors through standardized reporting, demonstrating both the frequency of such challenges and IRC's commitment to avoiding benefit to DTGs.

Program risk management

According to stakeholders in both Afghanistan and NWS, their dedicated engagement and access teams have enabled improved CT compliance as well as increased reach. The CT compliance benefit arises from having resources dedicated to identifying the many potential points of diversion or interference, working with program and operations teams to mitigate those, and effectively monitoring and responding to them. Although redlines are typically negotiated through engagement, they are crossed during implementation: so the ability to notice and respond to these events requires program adaptation, program staff support, and close coordination between

engagement/access staff, program staff, and operations staff.

Much can be done to mitigate CT risks through principled program implementation changes: routine engagement practices, staff guidelines, SOPs for different forms of interference in program activities, program monitoring, and staff training and support. This is seen in the risk management annexes for different project proposals, which describe program and engagement activities that contribute to increased control over assistance activities without infringing on core principles including impartiality (with the exceptions noted above under Beneficiary Screening). See Annex for a comparison of three project risk management annexes.

Elevating CT on the agenda

In each location, CT restrictions were given different levels of strategic attention by the humanitarian community. In Afghanistan, there is background awareness of CT issues that periodically surface more explicitly, for example in response to the Taliban's recent drive to register NGOs. Inter-agency forums, however, have not taken counter terrorism up in any sustained or formalized sense. One stakeholder reflected, "No [NGOs] or donors have ever raised issues in this light... it hasn't been on the Humanitarian Access Group (HAG) agenda, there has been no request to HAG to advocate with donors on counter terrorism questions." In Somalia, CT restrictions are prominent as agenda items, but stakeholders said that they resulted in relatively little action.

In NWS, in contrast to both Afghanistan and Somalia, counter terrorism is alive both as a concern and in action. Agencies have taken strong and public positions in response to CT measures and have made significant internal changes to enable risk-managed activities. Extreme restrictions on informal money transfer agents, including recent efforts by the SSG to force hawalas to deposit funds with a sanctioned bank, are seen as a serious threat to humanitarian aid and have prompted

Prominence of CT issues in the sector agenda

	Afghanistan	Somalia	NW Syria
Inter-Agency Prominence	No formal attention	On the agenda	Prominent
Key Issues	<ul style="list-style-type: none"> Engagement with Taliban (Doha especially) Taliban taxation Beneficiary selection Partner Vetting Beneficiary Screening 	<ul style="list-style-type: none"> Engagement with Al-Shabab (lack thereof) Al Shabab taxation Potential imposition of UN sanctions on Al-Shabab Stabilization funding/work in “newly liberated areas” 	<ul style="list-style-type: none"> Hawala Vetting Partner Vetting Beneficiary Screening Cross-border restrictions HTS taxation Beneficiary selection Syria sanctions

concerted effort. Understanding CT restrictions is seen as a general competency for effective action in this context: a training program for the humanitarian community offered by Diakonia Lebanon since October 2020 has been highly subscribed.²⁴

How IRC responds to “impartiality gaps” in DTG-controlled areas

Stakeholders from all three countries acknowledged the existence of populations in need in DTG-controlled areas that IRC was not serving. This does not by itself say much about IRC’s impartiality, because many factors beyond its control lead to this outcome. Instead, impartiality is shown by the effort made to overcome those barriers to serving those most in need wherever they may be: whether the existence of these service gaps, and the possibility that they reflect a failure to reach those most in need, is being recognized and addressed.

In this respect, IRC programs responded differently. In Syria, this led to the strategic decision, “in adherence with humanitarian principles and the humanitarian imperative...to explore the potential to expand programming beyond [IRC’s] existing presence in opposition-held areas to also include populations in GOS locations,” a stance that “would more clearly demonstrate impartiality and neutrality in humanitarian assistance.”²⁵ The potential compromises

required to narrow it were being actively discussed, and initial steps necessary to enable programming in Government controlled areas were being undertaken.

In Afghanistan, IRC leadership discussed whether to establish new offices to reach people in need, or to work for better access in remote areas near where IRC is already present. They decided on the second option. This was made with recognition that it might mean they were continuing to work in areas with less acute needs (although still very affected), but also based on the reality that IRC has limited capacity to open additional offices and has community commitments in the locations it is already present. While this decision might be considered not fully impartial, it was a deliberate, transparent decision that acknowledged tradeoffs between imperfect options.

In Somalia, however, IRC’s “impartiality gap” remained largely invisible and was assumed to be insurmountable. Stakeholder comments, confirmed in its public country strategy documents, conclude without elaboration that responding in Al Shabab controlled areas is infeasible. This may be the right outcome. But failing to engage thoroughly with the issue poses concerns: were any options overlooked, will IRC recognize when new opportunities arise, will it respond to those opportunities when they do?

Conclusion

Studies of the relationship between counter terrorism and humanitarian action are uniform in their call for more evidence about how the two interact in practice, and what tangible affects counter terrorism has on principled aid. This study of the relationship between counter terrorism and impartiality in the work of IRC in Afghanistan, Somalia and NW Syria contributes to that evidence base.

IRC's experience partly validates existing research by offering concrete examples of how counter terrorism measures have constrained or challenged the humanitarian principle of impartiality. But it does not support a position that counter terrorism measures are so inimical to humanitarian action that they preclude the delivery of principled aid under all circumstances or in all locations. The impartiality of IRC's response in each country could be enhanced, but it is not clear that counter terrorism measures, per se, were among the most important factors limiting IRC's impartiality in any of the countries.

IRC has found ways to successfully work within the dense web of counter terrorism measures in two of three contexts studied, delivering aid to some of the countries' neediest populations in areas under the direct control of DTGs in both Afghanistan and NWS. When the impartiality of its aid has been directly challenged, such as through donor efforts to impose beneficiary screening requirements, the IRC has pushed back and refused to undermine the non-discrimination

dimension of this principle, leading to compromises in program quality or potential loss of funding. Counter terrorism measures have not precluded IRC from working in some of the most challenging operational environments in the world, including ISIS controlled areas in North East Syria, Taliban controlled territory in Afghanistan, and HTS controlled areas of NWS.

In Somalia, there is a well-documented history of CT measures undermining the impartiality of the sector's collective humanitarian response,²⁶ and IRC has been extremely reluctant to explore possible ways to serve populations fully under Al Shabab control. But it was not evident that an absence of counter-terrorism measures, on their own, would lead to a fundamentally different IRC footprint in the country.

By formally scrutinizing the counter terrorism risks that exist, weighing the compromises to impartiality against other risks, and studying the successful ways of working IRC has adopted in similar high-risk environments where DTGs are present, IRC may find there are ways to enhance the impartiality of its responses in areas under DTG control. Even if this assessment does not lead to changes in current activities, going through a deliberative process will strengthen IRC's humanitarian ethics decision-making and provide a well-articulated foundation on which to assess the decision in the future.

Annex: Contents of Project Risk Management Annexes

Afghanistan ²⁷	Somalia ²⁸	NWS ²⁹
Cross-cutting measures		
<ul style="list-style-type: none"> • Training of staff on humanitarian principles • Grant opening meetings review CT clauses • Full time compliance coordinator position in country • Senior staff training by US OIG • Complaints and feedback mechanism communicated to beneficiaries with complaints officer in Kabul • Monitoring and Evaluation (M&E) coordinator tracks progress on complaints resolution • Senior staff field oversight visits as much as possible from Kabul • Detailed Cash SOPs • Dedicated HQ Ethics and Compliance Unit investigator to support investigations • IRC Way complaint reporting pathways • Country compliance unit created in Oct 2018 overseeing all compliance, SOPs, and promotion of culture of high ethical standards 	<ul style="list-style-type: none"> • End of grant client exit interviews to measure satisfaction with services • Complaints and Response mechanisms in place 	<ul style="list-style-type: none"> • States "IRC cannot guarantee" that DTGs will not interfere in program implementation, but commits to mitigation, monitoring and reporting incidents. • Community access to Feedback and Response Monitoring System (FARM) • States "IRC will only operate in areas where there is a reasonable assurance of being able to operate under a principled approach." • Proactive engagement with LCs on redlines around interference with beneficiary selection or implementation • Discussion of JOPs and humanitarian principles as part of access negotiations • Community sensitization to explain IRC, programs, and vulnerability criteria for targeting.
Commercial activities subject to taxes and/or fees by DTG		
<ul style="list-style-type: none"> • Review of procurement due diligence to ensure compliance with counter terrorism clauses • Supplier due diligence with background, ATC and reference checks 	<ul style="list-style-type: none"> • Suppliers subjected to prequalification due diligence, including ATC checks • Statement of no payment of taxes, fees or tolls to any groups or individuals other than prequalified suppliers. 	<ul style="list-style-type: none"> • Staff and suppliers undergo background checks performed by HAT during hiring and contracting processes
Supplies or equipment diverted or taxed by DTG		
<ul style="list-style-type: none"> • Internal compliance training on "zero tolerance" for assistance to DTGs and US OIG fraud prevention handbook • Majority of procurement delivered directly to field offices by suppliers who are purported to have "institutional capacity and access to deliver without interference from nonstate actors" 	<ul style="list-style-type: none"> • Ensure equipment and supplies are not delivered to any areas controlled by DTGs • Build strong relationships with local authorities and community which can retrieve any diverted supplies without payment • Unannounced M&E verification of program assets and outputs 	<ul style="list-style-type: none"> • Staff trained not to hand over materials to anyone not specified by senior management • All service providers given letter notifying them that donors require them to report to IRC any attempted diversion or taxation
Reputational benefit accrues to DTG		
<ul style="list-style-type: none"> • Community sensitization prior to start of program on IRC responsibility for programming • Community access and support required for implementation 	<ul style="list-style-type: none"> • Community sensitization prior to start of program to communicate nature and source of aid received 	<ul style="list-style-type: none"> •

- Community sensitization on targeting criteria, who providing aid, and source of funding for assistance
- Visibility of donor contributions except where security risk precludes it (i.e. Nangarhar)
- Where security permits, employ strong visibility approach
- Close partnership with Government Ministry of Health that demonstrates “services provided directly by IRC in collaboration with MOH and not by any other entity.”

Response to attempts by DTGs to interfere with IRC activities

- “Zero tolerance” statement
- Temporary or permanent suspension of activities
- Have access focal points for each province and dedicated access strategy
- Joint assessments with other humanitarian agencies and government focal points
- Notes “it is unlikely [DTGs] would attempt to interfere with program activities” in IRC areas of operation
- Follow SOPs in field office security management plan if interference happens
- Staff informed of requirement to report incidents to field management and humanitarian access team
- Incidents reported in interagency bodies like AWG
- Notes most interference not “direct” but via Local Councils (LCs) under SG influence
- If DTG-affiliated members identified among beneficiaries, all activities suspended, issue reported to line managers, M&E staff or compliance office; regional compliance staff investigate; report to donor

Beneficiaries of aid are “members or affiliates” of DTG

- Community sensitization on beneficiary targeting criteria
- Mobile data collection triangulated with unique household identifiers, GPS locations, reviewed by Kabul head office
- Spot checks by M&E staff before distribution to confirm eligibility
- Distribution and post-distribution monitoring (PDM) by M&E staff
- Complaints and feedback mechanism available, Kabul complaints officer
- Community participation in beneficiary selection based on clear selection criteria
- Verification of beneficiary identity (process not explained)
- Use of IRC staff recruited from the local area/community to ensure services not provided to DTGs or their members
- States IRC health interventions will “only be provided to eligible targeted beneficiaries and not members of any sanctioned group(s).”
- Community and local authority sensitization that interference in beneficiary selection will lead to cessation of activity
- Initial beneficiary lists provided by LCs verified by IRC or partner during household surveys
- Initial beneficiary list “verified by HAT to flag and remove names of known fighters... [HAT] performs beneficiary list vetting to identify any possible high profile names from DTG or affiliates.”
- Secondary verification of beneficiaries conducted by M&E team
- Final beneficiary selection conducted in Amman

Assistance does not reach intended beneficiaries during distribution

- Distributions attended by program, finance and M&E staff, latter conduct PDM
- M&E staff independently verify beneficiary details and documents against initial assessment data during distribution
- Beneficiary verification by both program and M&E staff prior to transfer of cash or NFIs
- Distributions undertaken directly by IRC staff
- Notes most assistance is “consumed” at the point of delivery, such as counseling or training, so not amenable to transfer or diversion
- Verification of all beneficiary lists by household
- Announce project and encourage households not visited to contact IRC
- Use of coding system without personal information, assigning QR code and paper tokens to eligible beneficiaries
- Distribution monitoring of ID docs and QR codes matching

- Finance, program and M&E staff attend distributions with segregation of oversight duties
- CD prior approval of oversight plan before distribution
- Collection of tokens, can't be reused
- M&E staff supervise and sign distribution lists

Assistance is diverted from recipients post distribution

- PDM 4-6 weeks after distribution with 10% of beneficiaries. Specific question whether "forced at any point to pay in order to be part of program or paid taxes/fees to armed groups."
- Investigation of any reported interference
- Retention of beneficiary lists for post distribution follow up
- Engagement with local authorities explaining "redline" against taxation and consequence of possible program cancellation.
- Community sensitization that there should be no payment or service in exchange for participation; availability of FARM system
- Use of pre-engagement survey to collect feedback on risk of taxation or fee imposition prior to implementation

Hiring benefits DTGs/individuals

- Staff hiring due diligence with ATC and Ministry of Interior clearance
- Staff hiring due diligence submit identity cards and personal details to undergo ATC checks.
- Staff undergo ATC checks prior to hiring

DTG checkpoints block or deny movement

- N/A
- N/A
- Security monitoring prior to issuance of travel clearance
- Provision of IDs and mission documents to field staff.

DTGs request registration, approval or accreditation

- N/A
- N/A
- States neither DTGs nor SSG "require NGOs to register or seek formal accreditation to operate"
- Information on IRC programming provided to SSG and LCs when requested in line with JOPs and humanitarian principles

¹ Modirzadeh, Naz, *Counterterrorism and Humanitarian Engagement in Somalia and Mali*, Counterterrorism and Humanitarian Engagement Project, Harvard Law School, March 2013; Pantuliano, Sarah, Kate Mackintosh, and Samir Elhawary, with Victoria Metcalfe, *Counter-terrorism and humanitarian action: Tensions, impact and ways forward*, ODI, Humanitarian Policy Group, October 2011; Mackintosh, Kate and Patrick Duplat, *Study of the Impact of Donor Counter-Terrorism Measures on Principled Humanitarian Action*, UN OCHA and Norwegian Refugee Council, July 2013; Norwegian Refugee Council, *Principles Under Pressure: The Impact of Counterterrorism Measures and Preventing/Countering Violent Extremism on Principled Humanitarian Action*, 2018.

² Pictet, Jean, *The Fundamental Principles of the Red Cross: Commentary*, International Federation of Red Cross and Red Crescent Societies, 1979 and Slim, Hugo, *Humanitarian Ethics: A Guide to the Morality of Aid in War and Disaster*, Oxford, Oxford University Press, 2015.

³ See, for example, Elliott, Vittoria and Ben Parker, *Balancing Act: Anti-terror efforts and humanitarian principles*, The New Humanitarian, 26 November 2019; Maxwell, Dan, Jeeyon Janet Kim, and Nisar Majid, *Planning from the Future, Component 2, The Contemporary Humanitarian Landscape: Malaise, Blockages and Game Changers, Case Study: The Somalia Famine 2011-12*, King's College London, Feinstein International Center Tufts University and Humanitarian Policy Group, August 2015; and HERE-Geneva, *Principled Humanitarian Assistance of ECHO Partners in Iraq*, May 2017.

⁴ UN OCHA, *OCHA on Message: Humanitarian Principles*, June 2012.

⁵ Pictet, pg. 27.

⁶ Roepstorff, Kristina, Charlotte Faltas and Sonja Hovelmann, *Counterterrorism Measures and Sanctions Regimes: Shrinking Space for Humanitarian Aid Organizations*, Center for Humanitarian Action, Berlin, 2020, pg. 2.

⁷ USAID, Bureau for Humanitarian Assistance, *Emergency Application Guidelines, Annex D: Risk Assessment and Management Plan to Prevent Misuse or Diversion of US Government Resources*, Updated September 25, 2020.

⁸ Terrorist Designation Status Comparison:

	Taliban	HTS	Al Shabab
US	Y *	Y	Y
UK	N **	Y	Y
EU	N **	Y	Y
UN	N **	Y	Y ***

* US has designated Taliban as "Specially Designated Foreign Terrorist" but not "Foreign Terrorist Organization"

** UK, EU and UN have designated various Taliban members, but not Taliban as an entity

*** UN sanctions on Al Shabab have a humanitarian exemption

⁹ Diakonia Lebanon, *Counter Terrorism Measures in Syria*, Webinar, November 5, 2020; Mackintosh and Duplat, *Study of the Impact of Donor Counter-*

Terrorism Measures on Principled Humanitarian Action. Some host state laws may have no contact laws, such as Pakistan, Myanmar and Syria.

¹⁰ Diakonia Lebanon, *Counter terrorism measures in Syria*.

¹¹ See for reference Johnson, Bridget, *ISIS Declares Humanitarian Aid Workers Are Legitimate Targets*, Homeland Security Today, August 18, 2020.

¹² Jackson, Ashley and Abdi Aynte, *Al-Shabab engagement with aid agencies*, Policy Brief 53, Humanitarian Policy Group/ODI, December 2013; Burke, Jason, *Al-Shabab militants ban starving Somalis from accessing aid*, The Guardian, July 27, 2017.

¹³ SDF stands for Syrian Democratic Forces, an alliance of Kurdish and Arab militias largely consisting of fighters from the YPG, the Kurdish Protection Group, fighting for self-rule in North East Syria. Turkey considers the YPG a terrorist group. See *Who are the Syrian Democratic Forces?*, Al Jazeera, October 15, 2019.

¹⁴ Harvard University, Counterterrorism and Humanitarian Engagement Project, *Partner Vetting in Humanitarian Assistance: An Overview of Pilot USAID and State Department Programs*, Research and Policy Paper, November 2013.

¹⁵ USAID, *Syria Vetting Standard Operating Procedures*, May 25, 2016.

¹⁶ "IRC will not conduct screening of humanitarian beneficiaries against terrorism sanction lists. IRC will also not implement a program that fails to serve people according to need, if some of the people in need are excluded due to a donor's sanction screening requirement." IRC HPC, *Donor Requirements for Screening Beneficiaries Against Sanction Lists*, November 1, 2018.

¹⁷ European Commission, Commission Notice: *Commission Guidance Note on the Provision of Humanitarian Aid to Fight the COVID-19 Pandemic in Certain Environments Subject to EU Restrictive Measures*, C(2020) 7983 Final, November 16, 2020. Question #25.

¹⁸ IRC Syria, *Risk Assessment and Mitigation Requirements for High Risk Environments*, Annex 7, submitted as part of OFDA proposal GD002: *Strengthening IDP Resilience in NW Syria Through Integrated Protection and Cash Support*, revised June 3, 2020, pg. 6.

¹⁹ GO395: *OFDA Multi-sector Emergency Response to the Humanitarian Crisis in Somalia*, July 3, 2019-July 2, 2020, Annex: Mitigation Strategy, unspecified submission date.

²⁰ Gordon, et al., *The impact of bank de-risking on the humanitarian response to the Syrian crisis*, Humanitarian Policy Group/ODI, August 2018.

²¹ IRC Syria, *Cash Relief Operating Procedures (CROPs)*, Cash Agents, September 30, 2019.

²² These redlines were incorporated into the inter-agency Joint Operating Principles in both Afghanistan and Syria. Feedback from IRC stakeholders in NWS, however, did not suggest that the JOPs, specifically, were referenced as part of humanitarian access negotiations.

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- ²³ GO402: *OFDA Multi-sectoral intervention to cover humanitarian needs occurring due to displacement, Security Management Plan Annex 1, Sanctioned Group Risk Mitigation Strategy*, updated January 2019; GD002: *OFDA Strengthening IDP Resilience in NW Syria through Integrated Protection and Cash Support, Annex 7, Risk Assessment and Mitigation Requirements for High-Risk Environments*, submitted June 3, 2020.
- ²⁴ It was reported that the six webinars held from October to December 2020 had over 300 participants. Topics covered included Syria sanctions; Syria counter terrorism measures; and screening requirements. Multiple webinars on the same topic were held at different times to accommodate both staff based in the Middle East as well as in North American offices.
- ²⁵ IRC Syria, *SAP October 2017-December 2020*, draft, revised July 2020, pgs. 51-2.
- ²⁶ Jackson, Ashley and Abdi Aynte, *Al-Shabab engagement with aid agencies*, Policy Brief 53, Humanitarian Policy Group/ODI, December 2013; Burke, Jason, *Al-Shabab militants ban starving Somalis from accessing aid*, The Guardian, July 27, 2017.
- ²⁷ GO402: *OFDA Multi-sectoral intervention to cover humanitarian needs occurring due to displacement, Security Management Plan Annex 1, Sanctioned Group Risk Mitigation Strategy*, updated January 2019.
- ²⁸ GO395: *OFDA Multi-sector Emergency Response to the Humanitarian Crisis in Somalia*, July 3, 2019-July 2, 2020, Annex: Mitigation Strategy, unspecified submission date.
- ²⁹ GD002: *OFDA Strengthening IDP Resilience in NW Syria through Integrated Protection and Cash Support, Annex 7, Risk Assessment and Mitigation Requirements for High-Risk Environments*, submitted June 3, 2020.