Humanitarian access and local organisations in Ukraine

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Acknowledgments

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List of acronyms

ATO	Anti-Terrorist Operation
CIMIC	Civil Military Coordination
DNR	People's Republic of Donetsk
EMERCOM	Ministry of Emergency Situations
EU	European Union
GCA	Government-Controlled Area
HPG	Humanitarian Policy Group
ICRC	International Committee of the Red Cross
IDP	internally displaced person
INGO	international non-governmental organisation
IS	Islamic State
LNR	People's Republic of Luhansk
MSF	Médecins Sans Frontières
NATO	North Atlantic Treaty Organisation
NGCA	Non-Government-Controlled Area
NGO	non-governmental organisation
OCHA	Office for the Coordination of Humanitarian Affairs
ODI	Overseas Development Institute
OSCE	Organisation for Security and Cooperation in Europe
PIN	People in Need
UN	United Nations

Executive summary

The past three years have been turbulent ones for Ukraine, with political instability in the capital Kyiv, the annexation of the Crimean peninsula by Russia and an ongoing conflict between Ukrainian government forces and pro-Russian separatists in the east of the country. Almost 10,000 people have been killed in the fighting, and in 2016 more than 3 million were in need of humanitarian assistance. An estimated 1.4m people are internally displaced.

International humanitarian organisations and Ukrainian civil society groups alike have raised concerns over lack of access to people in need in Ukraine, and the challenges people affected by the crisis have faced in accessing the support they need, both in government-controlled and non-government areas. In areas under government control, new regulations have limited freedom of movement and restricted trade and economic contacts with non-government areas, and internally displaced people (IDPs) have faced legal and bureaucratic impediments to accessing state benefits from the government. In areas in the east outside of government control, the de facto authorities have introduced an accreditation system that has made it effectively impossible for international organisations to operate. Movement across the contact line separating the two sides, both for people and for goods and trade, is tightly controlled, and access is limited by bureaucratic impediments, active fighting, intense shelling and widespread landmines.

This working paper analyses the level and quality of access humanitarian actors – particularly local groups – have managed to carve out in Ukraine, the challenges to securing that access, the strategies that have been used to open up access and how access has waxed and waned over time. It compares and contrasts the access international and local actors have had, and the similarities and differences in their approaches to access problems. The aim is to draw out the lessons the formal humanitarian sector can learn from the ways in which local actors approach access in conflict, as well as informing how these two groups of actors can or should interact.

Despite initial legal and bureaucratic hurdles in an environment unprepared for the arrival of the international humanitarian system, for the most part international humanitarian actors successfully set up operations in areas under government control. However, very few were able to establish or maintain access in non-government areas (NGCAs), and at the time of the research only two international agencies, the Czech NGO People in Need (PIN) and the International Committee of the Red Cross (ICRC) and at the time of the research only two international agencies, the Czech NGO People in Need (PIN) and the International Committee of the Red Cross (ICRC), alongside one national NGO, the Akhmetov Foundation, were operating at scale. were operating at scale. Both provided material assistance, while avoiding more sensitive work such as protection, needs assessments and monitoring.

Differing beliefs, strategies and approaches to access, principles and operational matters among the international aid community had severe consequences for international organisations' ability to deliver assistance in eastern Ukraine. The most striking difference was in their reaction to the accreditation process introduced by the de facto authorities in July 2015. UN agencies publicly refused to participate, and at OCHA's request NGOs initially followed the UN's line and allowed the UN to negotiate on their behalf. Subsequently, NGOs agreed to comply with the accreditation request, but in the vast majority of cases requests for accreditation were denied.

Differences between international organisations over accreditation reflected a wider failure within the international aid community to coordinate approaches to access negotiations more broadly. While some organisations based their negotiations on strong red lines, for instance on monitoring, assessments, targeting and accountability, the willingness of others to allow the dumping of assistance made it more difficult to persuade the de facto authorities to accept such conditions. Likewise, agreement by one agency not to carry out psychosocial work, and instead concentrate on 'hard' activities, left those NGOs trying

to negotiate access for protection and psychosocial support – namely the ICRC and PIN – exposed. The lack of agreement between international organisations on where their red lines in negotiations should be drawn meant that they undermined each other's ability to secure access and allowed the de facto authorities to pick and choose between them, with severe consequences for access overall.

Given the limited international operational presence, assistance in NGCAs was largely in the hands of local groups, including charitable and civil society organisations, private philanthropic organisations, church groups and networks of individual volunteers and activists. Activities included delivering food and non-food items, facilitating access to urgent medical care, providing psychosocial support and legal aid, registering IDPs and supporting emergency evacuations of civilians from towns and villages under shelling. Many local organisations operated opportunistically, using social media and networks of trusted volunteers to identify needs, raise funds and then cross the contact line to deliver cash, drugs and food. The key strategy was to maintain, rather than obtain, access: formal access negotiations with the de facto authorities were not felt to be necessary as organisations had not been told to leave, stop their operations or apply for accreditation; they simply continued their work as they had previously, with access neither denied nor explicitly given. For most, access to affected communities in non-government areas was at best fragile, restricted and sporadic.

In many ways, access in Ukraine was as much of a challenge for local actors as it was for their international counterparts. They faced the same restrictions and constraints on physical access, whether as a result of security conditions or the policies of the de facto authorities. For those who had access, maintaining operations largely meant reducing visibility, and for those crossing the contact line, covert operations and the use of established networks were the main strategies employed. Rather than negotiating access, many volunteer groups active in eastern Ukraine simply took it, using their comparative advantage as small cells of individual volunteers working within larger networks, their reactivity and their flexibility, both in legal terms and in terms of the level of risk they were prepared to face.

Local actors were highly critical of the way their international counterparts operated, questioning their motivations, ways of working and adherence to their own principles. At the same time, however, a growing recognition among volunteer groups of their own limitations and lack of sustainability, both in terms of funding and staffing, meant that, at the time of the study, interactions between these two sets of actors were evolving, from what might be regarded as cohabitation towards collaboration, coordination and formal, contractual partnerships. While functionally necessary, there was a sense that closer and more formal relations were undermining the features of local actors that made them attractive partners to the international sector, taking away the very flexibility and reactivity that enabled them to maintain access and respond where international actors could not. As the international system increasingly adopts a discourse of localisation, it will be important to acknowledge the risks and the benefits, on both sides, involved in closer partnerships with local aid actors.

1 Introduction

The past three years have been turbulent ones for Ukraine, with political instability in the capital Kyiv, the annexation of the Crimean peninsula by Russia and an ongoing conflict with pro-Russian separatists in the eastern region of Donbas.[1] Almost 10,000 people have been killed in the fighting, and in 2016 more than 3 million were in need of humanitarian assistance (OCHA, 2016a). An estimated 1.4m people are internally displaced (IDMC, 2015).

The international humanitarian community and Ukrainian civil society organisations have raised concerns over lack of access to people in need in Ukraine, and the challenges people affected by the crisis have faced in accessing the support they need, both in government-controlled and non-government areas. In areas under government control, regulations introduced under the Anti-Terrorist Operation (ATO) framework have limited freedom of movement and restricted trade and economic contacts with non-government areas, and internally displaced people (IDPs) have faced legal and bureaucratic impediments to accessing state benefits from the government. In non-government areas, regulations introduced by the de facto authorities in July 2015 have made it effectively impossible for international organisations to operate, while increasingly hostile policies are making it difficult for local organisations to provide assistance. Movement across the contact line separating the two sides, both for people and for goods and trade, is tightly controlled, and access is limited by bureaucratic impediments, active fighting, intense shelling and widespread landmines.

The research presented here is part of a two-year project[2] entitled 'Holding the Keys: Who Gets Access in Times of Conflict?'. Much thinking and research has been done on how international humanitarian actors gain access (Egeland et al., 2011; FDFA, 2014; McHugh and Bessler, 2006), the role of security in enabling or blocking humanitarian access (Collinson et al., 2013; Collinson and Elhawary, 2012; SAVE, 2016a) and the utility of humanitarian principles in gaining and maintaining access (HPG, 2015). However, even as the role of local actors is increasingly recognised as part of the overall humanitarian effort in conflicts (Svoboda and Pantuliano, 2015; Khoury, 2014; CHD, 2014), little is known about their level of access and the impact of what may be different operational principles and approaches on other actors within the same operational environment.[3] This paper constitutes one step in filling this gap.

1.1 Scope and methodology

For the purposes of this research, humanitarian access is defined as:

> *Access by humanitarian actors to people in need of assistance and protection and access by those in need to the goods and services essential for their survival and health, in a manner consistent with core humanitarian principles* (FDFA et al., 2014).

There is no agreed definition in the literature on access on what constitutes a 'local' actor: diaspora groups, for instance, may identify as local, but might be physically present anywhere in the world (Wall and Hedlund, 2016). Similar difficulties arise with the label 'international'. For example, an NGO may be international in the sense that it has offices in various countries, but may be entirely run by local staff in-country (Wall and Hedlund, 2016). 'International' may also be, or at least may be perceived to be, 'Western' rather than global. This was starkly apparent in this case study, where local actors defined many of their international counterparts as 'Western'. While acknowledging that labels are imperfect, this study uses the term 'local' to refer to actors and organisations that were either not set up explicitly for the purpose of providing humanitarian assistance, or that evolved

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1   Whether place names are transliterated into English from their Russian or Ukrainian forms is a politically sensitive issue. This paper uses the Ukrainian spelling of Donbas, Kyiv and Luhansk, rather than the Russian spelling of Donbass, Kiev and Lugansk, though this should not be taken to indicate any partiality for one or the other side.

2   A companion case study on the Syrian crisis has been completed. For more details on the project and outputs, see https://www.odi.org/programmes/humanitarian-policy-group.

3   For further evidence on the access of local organisations, see SAVE (2014; 2016a; 2016b), and Schenkenberg (2016).

organically in response to events in eastern Ukraine; and 'international' to indicate organisations broadly recognised as comprising the formal humanitarian system of international NGOs, the UN system and the Red Cross/Red Crescent Movement. The key focus of analysis is in any case less on the particular origins of specific organisations, and more on broader similarities and differences in the strategies, organisational make-up, skills and networks that the broad range of actors in Ukraine have employed.

The paper is based on an analysis of document reviews and 70 semi-structured interviews conducted remotely and in Ukraine between April and July 2016. Interviewees included experts on Ukraine, representatives of international organisations and staff from international NGOs, UN agencies, local actors and local authorities. Twenty-one interviews were conducted with international actors and 41 with local actors. Local actors included national volunteer groups (Ukrainian, but also more locally from the Donbas region of eastern Ukraine), charities, church groups and private sector philanthropic organisations. All interviews with local actors were conducted in Russian with the help of a translator. Most organisations were based in

government-controlled areas (hereafter referred to as GCAs), and operated both there and in non-government areas (NGCAs), though a small number were based and operated solely in NGCAs. All interviews were anonymised. Three focus group discussions were conducted with IDPs in GCAs. Security concerns prevented researchers from travelling to NGCAs, and the study team was unable to interview conflict-affected people in these areas, armed groups or the de facto authorities in separatist-held areas, Russian organisations operating in or sending aid to non-government areas and Russian government authorities.

The following chapter provides an overview of the crisis, the key actors involved in the humanitarian response and the main access issues facing humanitarian organisations, including those stemming from the policies of the government in Kyiv and the de facto authorities. Chapter 3 looks at international actors in Ukraine, asking who has access and why, what influences access and why it is denied and the different strategies these actors have used to try to secure access. The fourth chapter sets out a typology of local actors in Ukraine and explores how these groups have approached the challenge of access in NGCAs.

2 The Ukraine crisis: humanitarian response and humanitarian access

2.1 The conflict

Since independence from the Soviet Union in 1991, Ukraine has experienced a high level of social and political activism. This civic engagement is exemplified by the first Orange Revolution, a mass protest movement triggered by attempts by the authorities to rig the presidential election in 2004 (D'Anieri, 2010). Fresh popular protests a decade later, dubbed the EuroMaidan movement, forced the removal from office of President Viktor Yanukovych in February 2014 (Lough and Solonenko, 2016).

The current crisis in eastern Ukraine was sparked by the government's decision in November 2013 to halt preparations for a deal with the European Union (EU), leading to months of pro-European protests in Kyiv and across Ukraine. Known as the Revolution of Dignity, the EuroMaidan protests were named after the central square in Kyiv, Maidan Nezalezhnosti (Independence Square). Protesters demanded the resignation of Yanukovych and a series of reforms to tackle pervasive corruption, work towards closer relations with Europe and tackle the country's economic problems (ACAPS, 2015). The protests forced a change in government in February 2014, bringing to power a more European-leaning administration under the oligarch Petro Poroshenko.

Russia annexed Crimea in February 2014, and in March a referendum there approved the annexation. According to the organisers 97% voted in favour, but the plebiscite was not internationally recognised. According to official figures, the annexation created an estimated 20,000 IDPs, though estimates from civil society organisations range from 50,000 to 80,000 (IDMC, 2015). The crisis worsened in spring 2014 with violent protests in south-eastern Ukraine, accompanied by calls for a referendum on independence. In April 2014, the government responded with an Anti-Terrorist Operation (ATO) against what it called 'pro-Russian separatists'. The ATO framework allowed for the deployment of Ukrainian troops to conflict areas and checkpoints on roads in areas controlled by the government; established a military administration; and imposed controls on the movement of goods and people, including humanitarian goods and staff, between government-controlled and non-government-controlled areas (GCAs and NGCAs respectively). By May, parts of Donetsk and Luhansk in eastern Ukraine were under the control of pro-Russian separatists, and two new independent republics, the Donetsk People's Republic (DNR)[4] and the Luhansk People's Republic (LNR), were proclaimed.

While pro-Russian separatists retreated from the cities of Slovyansk and Kramatorsk in July 2014, fighting has continued along a largely unchanged conflict line. People in areas either side of the line – also referred to as the contact line – are effectively trapped in a grey zone between the Ukrainian army and the separatists, recognised neither as inhabitants of GCAs or NGCAs. They also face significant security risks from landmines, unexploded ordnance and shelling. While people in these areas are not technically besieged and are allowed to move out of the zone, security conditions and the presence of checkpoints requiring official passes from the Ukrainian government make movement difficult. Most local authorities have left the area near the contact line, and government services there have been suspended.

The relationship between the de facto authorities in the DNR and LNR, and the extent of Russia's involvement in the war in Donbas, have been much debated. Ukraine has long been central to Russia's geopolitical calculations in Eastern Europe: the country looks both east, to Russia, and west, to Europe (ACAPS, 2015), and this division is keenly felt within the country. Although most Ukrainians are bilingual and speak both

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4   The DNR is sometimes referred to by the acronym DPR.

Russian and Ukrainian, around 70% have Ukrainian as their first language, and nearly 30% Russian.[5] Ukraine is also divided along religious lines, with the country's Orthodox churches belonging either to the Moscow Patriarchate (which has close ties to Moscow) or the Kyiv Patriarchate. The western-most part of Ukraine has close historical ties with Poland and harbours strongly nationalist sentiment.[6] The east is home to the country's majority Russian-speaking population, with social and cultural attitudes derived from the Soviet period, when many Russians were resettled to Ukraine from Siberia. Many of these newcomers later formed the Ukrainian elite, both nationally and in the east. The south-eastern region of Donbas has historically been the industrial centre of the country, and much of its economy is run by oligarchs (ACAPS, 2015) who accrued wealth after independence through the privatisation of state assets (Jarabik, 2015; Lutsevych, 2015). Oligarchs wield both economic and political power (ACAPS, 2015), and have held senior posts, including the presidency.

Whether soldiers on the ground in eastern Ukraine were official Russian army troops or Russian civilians, Moscow has a strong influence over the de facto authorities in eastern Ukraine (ICG, 2016). The conflict can essentially be seen in two ways. One interpretation argues that pro-Russian forces acted to protect Ukraine against Western encroachment and the government's pro-European agenda. The other argues that the conflict is the result of Russia bullying Ukraine into not signing the EU agreement in 2013, Russian aggression in Crimea and Moscow's backing of pro-Russian separatist forces (Edgar, 2016; Wilson, 2014). Western donors, the UN and international humanitarian organisations have by and large accepted this interpretation, and see the conflict as a product of Russian meddling, rather than a response to Western Europe's policy of extending its influence over Eastern Europe.

This polarised view glosses over the complexities of a conflict with long historical, cultural and linguistic roots. As Omelchenko (2015) argues, 'understanding Ukraine as a proxy interstate conflict is too simplistic as such an interpretation entirely disregards the genuine grievances that the population of eastern Ukraine is seeking to highlight to the government'. Local actors interviewed for this study highlighted aggression from Russia, but also pointed to the cultural and linguistic discrimination many people in eastern Ukraine feel. Interviewees also saw aid providers as influenced by the political agendas of their funders. On the one hand, Russian assistance – Russia is believed to be supporting the de facto authorities in the LNR and DNR with military supplies and aid, paying benefits and funding government and military salaries (Quinn Judge, 2016) – is perceived as an extension of Russia's involvement in and support for the LNR and DNR. On the other, humanitarian actors from the international system are perceived as Western entities supporting the West's interpretation of the war as a product of Russian aggression, and as part of the political agenda towards Ukraine (and Russia) being pursued by the EU, European governments and the United States.

Whether the conflict is a result of Russian aggression or domestic unrest and instability, Russia is undeniably a major player in the crisis in eastern Ukraine. Analysts agree that Russia's intervention, and its policy towards eastern Ukraine more widely, is the continuation of its regional policy of destabilisation and its efforts to maintain its sphere of influence (Van Metre et al., 2015). In particular, analysts view Russia's policy towards the Minsk process[7] – the political process aiming to negotiate a peaceful end to the conflict – as replicating a pattern seen earlier in the war with Georgia in 2008 (Van Metre et al., 2015). While Russia consistently denies direct military involvement in Donbas, others have argued that Russian troops intervened in August 2014 to head off the defeat of local armed groups by Ukrainian forces (Vallet, 2016). According to former International Crisis Group analyst Paul Quinn Judge, 'Moscow could resort to such means [using large Russian units to fight] should the lower-cost, lower-visibility approach of supporting the Donetsk and Luhansk entities in a protracted conflict fail' (Quinn Judge, 2016).

Western governments' engagement with Ukraine is driven by a number of factors. The US and EU have

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5   According to a 2001 census, 67.5% of Ukrainian speak Ukrainian, 29.6% speak Russian (World Factbook, 2016). While language is a politically sensitive issue in Ukraine, the study did not find a link between language and access for local actors.

6   For more on the history of Ukraine and its links both to the east and the west, see Plokhy (2015).

7   The Minsk peace process involves Ukraine, Russia, France and Germany. It aims to bring a political and diplomatic resolution to the conflict, first through ceasefire agreements and eventually a peace agreement. For more on the process, see http://www.osce.org/special-monitoring-mission-to-ukraine, http://www.economist.com/blogs/economist-explains/2016/09/economist-explains-7 and http://www.bbc.co.uk/news/world-europe-31436513.

long sought democratisation and political reform in Ukraine, and EU governments in particular have supported rapprochement and the country's long journey to EU accession. However, Western governments are also mindful of Russia's role on the UN Security Council, and in the fight against Islamic State (IS) in Syria. Many EU governments also have significant trade, energy and economic ties with Russia. The humanitarian concerns of Western governments are the third, but probably the least important, factor when engaging on the Ukraine crisis. In December 2016, the EU prolonged for six months its targeted economic sanctions against Russia for the unlawful annexation of Crimea and its role in eastern Ukraine, putting some pressure on Moscow to de-escalate the conflict.[8] Beside the Minsk process, other multilateral fora play important roles in Ukraine, including NATO (training, non-lethal military assistance, cooperation on defence reform) (Van Metre et al., 2015), the EU assistance mission to Ukraine and the OSCE (through the Special Monitoring Mission, for instance).

How Russia and Western governments deal with the Ukraine crisis cannot be separated from other crises in which they are involved, in particular Syria. Some see Russia is 'an indispensable partner' in eradicating IS, and therefore 'must be accommodated with over Ukraine' (Vallet, 2016). The need to maintain functional relations over Syria has prevented US and European leaders from imposing 'stronger measures against Russia over its Ukraine intervention' (Van Metre, 2015).

2.2 The humanitarian crisis: needs and response

At the time of the study, an estimated 9,700 people had been killed since the crisis began, and 22,600 injured (OCHA, 2016b). According to OCHA, in 2016 3.1 million people were in need of humanitarian assistance, including protection, emergency water, food, health, shelter and access to critical basic services and markets (OCHA, 2015a). A significant proportion of the affected population is elderly: UN figures cited in a HelpAge study published in July 2015 indicate that nearly a third of the 3.1m people in need of assistance in eastern Ukraine are elderly (HelpAge, 2015).

Ukraine is an atypical humanitarian context in several ways. Unlike most crisis contexts, it is a middle-income country with a developed economy and decent living standards. It is also facing its first humanitarian crisis in modern times, and unlike states for which this is a more common occurrence the country had no experience of dealing with the large-scale deployment of international humanitarian organisations. At the start of the response laws and systems were exposed as inadequate and humanitarian organisations faced multiple bureaucratic, logistical and legal hurdles to setting up operations. Ukraine's legal framework did not allow for the special treatment of humanitarian materials or the hiring of international humanitarian staff, and its tax laws were not designed to facilitate humanitarian operations. Opening bank accounts and registering organisations, especially international NGOs, proved challenging, and the humanitarian community had to dedicate significant time and effort in developing a new legal framework for humanitarian action. Over the months and years since the crisis began, the Ukrainian government has worked with the international humanitarian community to adapt its systems and legislation, though by April 2017 a draft law on humanitarian assistance had been sitting in parliament for over 18 months, and legislative challenges had still not been fully addressed.

With the notable exception of Médecins Sans Frontières (MSF), which had operated in Ukraine since 1999 (MSF 2016a), and PIN, present since 2003, there was no international humanitarian presence prior to the crisis. Given this, the initial response in both GCAs and NGCAs was largely in the hands of local civil society groups, including private foundations funded by Ukrainian oligarchs; the Akhmetov Foundation, created by billionaire Rinat Akhmetov, the richest man in Ukraine and one of Donbas's most prominent oligarchs, was a major contributor to the humanitarian effort in the DNR until February 2017, when the de facto authorities closed down the foundation's network of distribution points. UN agencies deployed emergency staff from April 2014, and large international NGOs started setting up operations the following August, in both NGCAs and GCAs (OCHA, 2014a). The cluster system was activated in December 2014.

In July 2015, the de facto authorities in the NGCAs told international actors to apply for accreditation or withdraw. At the time of the research in mid-2016 only two international organisations – the International Committee of the Red Cross (ICRC) and (until December 2016, when it was asked to leave,

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8   See http://www.reuters.com/article/us-ukraine-crisis-eu-sanctions-idUSKBN1481JL.

for reasons unclear) the Czech NGO People in Need (PIN) – had received such accreditation, and as such were the only international organisations operational in the NGCAs.[9] Humanitarian convoys to the NGCAs have been organised by Russia, led by the Russian emergency response ministry EMERCOM, and apparently coordinated with 'Ukrainian colleagues, ICRC and other international organisations' (MCHs, 2016).[10] Respondents in this study repeatedly stated that the contents of the convoys, as well as where and to whom aid was being distributed, was unclear, and convoys were not coordinated with other humanitarian assistance in the NGCAs. Russian opposition and independent media have reported that aid is not reaching vulnerable groups in the DNR or LNR (Zhegulev, 2015; Sergatskova, 2014).[11]

2.3 The access problem in Ukraine

Access challenges in Ukraine have evolved over time, and differ greatly according to the location and target population concerned. They are also commonly experienced in other contexts of humanitarian action. In government-held areas, the main issues are around IDP rights and registration; in areas closest to the contact line separating government- and non-government areas, the main challenges are insecurity and ambiguity over who controls what territory; and in the NGCAs assistance is impeded by insecurity, the Ukrainian government's economic blockade and the accreditation system introduced by the de facto authorities in July 2015. At the start of the conflict, access challenges across eastern Ukraine stemmed mainly from insecurity due to active fighting, and the bureaucratic impediments related to the lack of a legal framework governing international humanitarian assistance. On the ground, there was a lack of coordination between assistance actors and the multiple armed groups involved in the conflict, coupled with a general lack of understanding of the nature and modalities of humanitarian response. A general perception that humanitarian assistance was

going to the 'other side' or was supporting 'terrorists' led government forces to prevent humanitarian cargoes from crossing into NGCAs. Access was also restricted by the government embargo on the NGCAs, which initially at least did not distinguish between commercial and humanitarian consignments. Advocacy by humanitarian actors and pressure from some donors succeeded in forcing an exemption for humanitarian assistance, though local army leaders still tried to deny access to humanitarian assistance crossing the line of contact.

In the NGCAs, physical access for humanitarian organisations was severely curtailed by the accreditation system established by the de facto authorities in the DNR and LNR in July 2015. The de facto authorities also placed restrictions on the activities humanitarian organisations could undertake, in particular needs assessments, protection programmes (landmine awareness and psychosocial support) and monitoring. Although in November 2015 Russian Foreign Minister Sergey Lavrov called on the de facto authorities to collaborate with UN humanitarian agencies and non-government organisations on aid delivery and give them access to NGCAs, this had no impact, and the extent and nature of Russian influence over access decisions in the NGCAs is unclear.[12] Some interviewees told the study that all assistance entering the NGCAs had to be approved by EMERCOM, while others were more cautious in attributing where decision-making power lay.

Ukrainian government policies restricting people's access to state services and benefits in NGCAs remained a significant source of concern, and were arguably as important in creating the humanitarian crisis as the de facto authorities' denial of physical access for humanitarian organisations. In November 2014, the government effectively ceased all state-funded payments to territories and populations outside of its control, including pensions and other benefits (there are an estimated 400,000 pensioners in Luhansk and Donetsk (Protection Cluster, 2015a)).[13] The measures also stopped payments to state employees and support to formerly state-funded institutions, including local authorities, schools and hospitals. Institutions in NGCAs – and any support to them, such as medical supplies for hospitals

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9   While access was challenging but possible for a few organisations in DNR, almost no organisation has been able to maintain access in the LNR. Several interviewees believed that this was due to weaker and more fragmented authorities in the LNR, and the leadership's greater reliance on Moscow.

10 Literature review in Russian by Sofya Bourne, May 2016.

11 *Ibid.*

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12 *Ibid.*

13 In October 2015 the High Court in Kyiv declared the government's decision to stop pension payments illegal and order them to resume, though at the time of the study pensions were still not being paid by the government in Kyiv (Protection Cluster, 2015a).

– were classified as illegal. The curtailment of state funding for public institutions meant that 'conflict-affected populations continue to be subject to denial or obstructed access to health services including shortage of drugs, food aid, water and sanitation as well as education' (Protection Cluster, 2015a). In addition, the government's economic embargo banned all trade and commercial relations with NGCAs, including banking.[14] Although at the time of the study the de facto authorities, with Russian support, had started paying pensions, transfers were small and could only cover a portion of needs. Inflation due to the trade blockade and the use of the rouble as currency in the NGCAs further eroded the value of these payments.

A permit system introduced in January 2015 made it difficult for people to move back and forth between NGCAs and GCAs in order to access their bank accounts, obtain healthcare and medicines and access the government bureaucracy, including to register births and deaths. According to the OSCE's Special Monitoring Mission, the permit system 'has severely limited the capacity of individuals to leave conflict-affected areas or to access safe areas and life-saving assistance, including humanitarian aid' (OSCE, 2015a). Obstacles in the way of obtaining a permit include 'complicated and cumbersome application requirements, difficulties in obtaining necessary documentation in areas where state administration and services are no longer present, inconsistent application, and impossibility of travelling to permit issuing authorities' (OSCE, 2015a). One donor representative interviewed in this study noted that 'the government does not overtly block the population from going back and forth. They do not have rules about coming in or out. But they make it so difficult that it is an impediment'. Civilians intending to cross the contact line face hours of waiting in areas affected by landmines; people may have to stay overnight at checkpoints in the event of shelling, and checkpoints can be closed without notice, meaning that people often travel long distances across a conflict zone with no guarantee that they will be able to cross once they reach the contact line.

With respect to IDPs, in October 2014 the Ukrainian government adopted a law on 'Ensuring the rights and freedoms of internally displaced persons', which in principle provides the basis for IDPs' rights, including 'protection against discrimination, forcible

return and assistance in any voluntary return. The law also simplifies procedures for accessing social and economic services, including social and unemployment benefits and residence registration, required for accessing banking services and registering a business' (Protection Cluster, 2015b). However, in practice bureaucratic and policy impediments meant that getting registered and accessing rights and services was a challenge for many IDPs.[15] While this could be taken as a common symptom of Ukraine's bloated bureaucracy, which makes any administrative process difficult, IDPs spoken to during the field research felt that the government was deliberately trying to make procedures as difficult as possible. A new regulation introduced in June 2016, for example, requires social workers from the Ministry of Social Policy to verify IDPs' addresses through unannounced visits, and registration – and hence access to specific assistance, as well as the social benefits, such as pensions and child support, that all Ukrainian citizens are entitled to – can be denied if the IDP is not at the address at the time of the visit. As one IDP put it, 'you must pass the seven circles of hell to receive assistance from the government'. Another told the study team that they felt like a stranger in their own country. In February 2016, social protection payments were suspended for individuals who had registered as IDPs, but who were still resident in NGCAs. In turn, IDPs in government areas felt compelled to reduce their travel to NGCAs as they feared having their IDP status and social payments revoked; as one IDP the study spoke to put it: 'I am not able to go and see my family too often. If I go too often, every pass is registered. If they see I go too often, they freeze all the social benefits I get'.

Widening access to state services and benefits was a key concern for international humanitarian actors, both for IDPs and for civilians in areas outside of government control. The Humanitarian Coordinator was in dialogue with the government over social protection issues, and had made this a priority advocacy issue. However, at the time of the study international humanitarian agencies felt limited in their ability to persuade the government to change its policies towards IDPs and civilians in NGCAs, and recognised that internal differences within the Ukrainian government over support to people in NGCAs meant that it would be difficult to change policy through the parliamentary

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14 With some exceptions, such as the transport of coal between NGCAs and GCAs.

15 Although corruption is a major factor in interactions with the Ukrainian authorities, this issue did not come out strongly in interviews or focus group discussions.

process. While some donors had made their budget support for the government conditional on IDP rights, one interviewee told the study that 'a demarche was drafted by one of the main Western government donors to put pressure on the government of Ukraine to ensure social provision and protection for all citizens but it was dropped [by that government]'.

In summary, the research found that access – both humanitarian agencies' access to affected people and affected people's access to basic services and benefits – was hampered by government policies, restrictive procedures in non-government areas, insecurity and curtailed freedom of movement. While in GCAs physical access was not an issue, only two international actors, the ICRC and PIN, were able to gain and maintain access in NGCAs. The next sections consider access for international humanitarian organisations and their local counterparts, with a particular focus on physical access to the DNR and LNR.

3 International actors and the access problem in Ukraine

For the most part, international humanitarian actors successfully set up operations in areas under government control, and overcame the bureaucratic hurdles in an environment unprepared for humanitarian work. However, very few were able to establish or maintain access in the NGCAs. The scope for operations near the contact line was also very limited given agencies' security management policies.

3.1 Why was access so limited?

At the time of the study in mid-2016, only two international aid organisations, the ICRC and the Czech NGO PIN, were operating at scale in the DNR.[16] MSF's accreditation was withdrawn in 2015, and subsequently PIN has also lost its accreditation, without explanation. In the LNR, only the ICRC has been able to secure good access, although PIN received accreditation in LNR for limited periods. UN agencies (OCHA, WFP and UNHCR) set up offices in the DNR in 2014 and in the LNR in 2015, with limited staff, but had limited operational capacity, working with great difficulty on a small scale through PIN and those local partners allowed to operate by the de facto authorities (either with or without formal accreditation).

Why the ICRC and PIN, alone among international organisations, succeeded in gaining access to the NGCAs at the time of the study was unclear, and many interviewees simply did not understand why access was either granted or denied. Many observers and interviewees believed that both agencies' relationship with the Russian government was a factor in facilitating access. The ICRC has a regional office in Moscow, receives Russian funding and has developed links with senior Russian politicians through its previous work in the country. Given its

unique legal personality and mandate within the international system, it may also have been perceived as a more neutral, less 'Western' entity, and denying it access may have been seen as a dangerous move politically. Both the ICRC and PIN had a long-standing operational presence in former Soviet countries in the Caucasus, and PIN had been present in Ukraine since 2003 (although only operational and providing aid in eastern Ukraine since 2014), which may have enabled it to develop local networks and relationships. Interviewees also suggested that both organisations' prompt response to the crisis and their early engagement with the de facto authorities – in PIN's case assisted by hiring Russian-speaking staff – contributed to their ability to secure access (cf. Jackson and Giustozzi, 2012). Finally, the type of programming both organisations chose to pursue – essentially material assistance, rather than more sensitive work such as protection, needs assessments and monitoring, may also have been a factor. As one interviewee put it: 'PIN is an old-fashioned NGO. They distribute blankets, and they get on with it. There is no perception of them colleting protection concerns. They do good, accountable humanitarian programming at scale in difficult areas'.[17]

Given the minimal operational presence of international actors in NGCAs, the more pertinent question is perhaps not who had access, but why access was so consistently denied. MSF's experience suggests that, in itself, simply having a long-standing presence in the region was no guarantee that access would continue: the organisation had been working in eastern Ukraine for many years, but this did not prevent the authorities from withdrawing its accreditation in 2015. Other NGOs that were denied accreditation also had a large operational presence in the Caucasus. More pertinent perhaps is the fact that, when the international system

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16 One interviewee mentioned that other international NGOs were working cross-line into NGCAs. However, the study found no further evidence of such activity aside from working through remote management with local volunteer groups.

17 HPG research on engagement with armed non-state actors highlights the importance of early engagement with armed groups and de facto authorities in facilitating access (Jackson and Giustozzi, 2012).

did finally mobilise, organisations were entering a politically sensitive space at a time when the de facto authorities were struggling to consolidate their power and build their legitimacy. The arrival of outside assistance may have been seen as undercutting these efforts. As explained by an INGO staff member:

> *In the east there is a more of a Soviet mentality that the state will provide. It is interesting when we first arrived and did our assessment mission – In Africa, they roll out their shopping list – here they told us they did not need anything. There is a mentality that the state will provide and if you suggest that there is a need, then it means that somebody is not doing their job properly.*

Given the political climate, the de facto authorities were unsurprisingly suspicious of the arrival of a large number of outside agencies generally associated with Western states hostile to the separatists and their Russian backers. In a post-Soviet environment that placed a premium on individual relationships and trust, the almost complete lack of a prior presence also meant that no such links existed between international actors and their staff – most of whom hailed from the United States and Western Europe – and those in a position to grant access. For those on the ground, including volunteer groups, the sudden arrival in eastern Ukraine of so many unfamiliar players, structures and patterns of working was both overwhelming and confusing.[18]

The arrival of humanitarian assistance – particularly medical assistance – may also have been seen as challenging the vested economic interests of Ukraine's oligarchs, and as disruptive to a long- and well-established, highly corrupt, economy with links to the black market and illegal trade. Several respondents suggested that MSF had been told to leave because its free delivery of pharmaceuticals went against some oligarchs' interests. Denial of access for some organisations was 'based purely on economic interest because of the black market'.

3.2 Access and accreditation

Differing beliefs, strategies and approaches to access, principles and operational matters among the international aid community had severe consequences for international organisations' ability to deliver assistance in eastern Ukraine. The importance of coordinating negotiated access and reaching a consensus on red lines in negotiations is well recognised (see Jackson and Aynte, 2013; Bradbury et al., 2000; Grace, 2012; Schreter and Harmer, 2013; Duffield, 1997). In Ukraine, fundamental disagreements between international aid organisations meant that such consensus was never achieved.

The most striking difference in how international actors approached access challenges in eastern Ukraine was in their reaction to the accreditation process introduced by the de facto authorities in the DNR and LNR in July 2015. UN agencies publicly refused to participate out of a concern that acceding to the demand for accreditation – as opposed to simple registration – risked conferring undue legitimacy on the authorities in the LNR and DNR, and went against UN Security Council resolutions guaranteeing the territorial integrity of Ukraine. Instead, UN agencies passed the issue to headquarters in New York, and used diplomatic channels to influence Moscow and the de facto authorities' position on the accreditation system.[19]

For their part, at OCHA's request NGOs initially followed the UN's line against accreditation, and allowed the UN to negotiate on their behalf, before subsequently changing their minds and agreeing to comply with the accreditation request. In the vast majority of cases requests for accreditation were denied. Several interviewees felt that the initial decision to agree to a common approach with the UN meant that an opportunity was lost to create the right basis to negotiate access with the de facto authorities, ultimately undermining their chances of ever gaining negotiated access. As one interviewee from an international NGO put it:

> *There were errors made by the UN. We were requested by the UN to let them take the lead. Now our window of opportunity is closed. In hindsight, we should have taken the lead and done the negotiations ourselves.*

Many NGO representatives believed that having the UN as a single negotiator on behalf of the larger

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18 These issues have been identified in other contexts. See Stoddard et al. (2015).

19 A tendency to turn to the Security Council with access problems before possibilities on the ground have been exhausted is not uncommon in other contexts: see Svoboda and Gillard (2015).

humanitarian community led to a situation where the UN 'was theoretically negotiating on behalf of NGOs but at the same time securing the interests of the UN'. For their part, interviewees from the UN complained of NGOs 'going astray', and argued that the fact that virtually no international organisations were granted accreditation supported the UN's position that the whole process was a political manoeuvre by the de facto authorities to gain international recognition. Other observers recognised the political aspects of the accreditation debate, but argued that it was the UN that had politicised the process; as one interviewee put it: 'the UN made the whole issue of accreditation public – publicly declaring they will not sign it then [going] to the Russian Embassy and through New York to get to the Russian Ministry of Foreign Affairs. This made it clear to the Russians that there is a possible political gain'. According to another:

> *Opportunities got muddled with the UN when they insisted on going through New York … In December 2014, there was an opportunity to sign agreements with LNR and DNR. The international community was too concerned over the Government of Ukraine's reaction to the getting accredited in DNR and LNR. By refusing to sign these accreditations, it demonstrated to DNR and LNR the lack of respect and coherence within the humanitarian community. Then the opportunity was lost.*

Differences between international organisations over accreditation reflected a wider failure within the international aid community to coordinate approaches to access negotiations more broadly. Thus, while some organisations based their negotiations on strong red lines, for instance on monitoring, assessments, targeting and accountability, the willingness of others to allow the dumping of assistance made it more difficult to persuade the de facto authorities to accept such conditions. Likewise, agreement by one agency not to carry out psychosocial work, and instead concentrate on 'hard' activities, left those NGOs trying to negotiate access for protection and psychosocial support – namely the ICRC and PIN – exposed. In effect, the lack of agreement between international organisations on where their red lines in negotiations should be drawn meant that they undermined each other's ability to secure access and allowed the de facto authorities to pick and choose between them, with severe consequences for access overall.

As a result of the de facto authorities' refusal of accreditation, at the time of the study the UN's approach was to seek access for all humanitarian organisations for all types of humanitarian activities, while at the same time working through local and international partners that had access. One respondent labelled this 'a kind of schizophrenia to be looking as active as possible even if not [acting]'. By contrast, organisations with access – PIN and the ICRC – approached access through a step-by-step process that combined operations and negotiations. In what one donor respondent called 'the ICRC approach':

> *you gain some trust, some access. It is a long game. You try to responsibilise the authorities to allow x and y and you support them to do that. If you can get access to provide basic humanitarian assistance, then you try to expand that as much as possible. You probably only need a few organisations on the ground. You do not need the multi-agency needs assessments. You do not need the circus.*

The strategy was to implement simple, tangible activities, such as food distributions or the reconstruction of destroyed homes, before moving on to more sensitive areas of programming, such as needs assessments, monitoring and psychosocial support, demonstrating the value of assistance and helping build trust with authorities that had a very restricted understanding and acceptance of what counted as humanitarian aid. 'They regard it all – education, psychosocial support – as part of a humanitarian discourse. When the time gets tough, they argue we need bread not this hocus pocus':

> *At the level of de facto authorities, they did not like the way humanitarian assistance was done. Humanitarian aid for them is packages of sugar and butter, rebuilding destroyed houses. That is what they thought would happen and that it would happen within days. But the international system moves slowly because of its dependence on institutional funding. The de facto authorities had not seen the international system before. What is normal to us, is abnormal to them. They did not understand people asking questions and doing focus group discussions. Only tangible assistance makes sense.*

The de facto authorities' refusal to allow needs assessments and monitoring further reduced the scope

of the activities UN agencies could undertake. More broadly, the fact that UN entities rarely do direct implementation themselves, working instead through partners, made it difficult to pursue an access strategy predicated on a combination of aid delivery and negotiation, raising the question whether physical or operational access was ever a possibility for the UN in eastern Ukraine (and indeed whether it was necessary at all for agencies not engaged in direct implementation).

For those international organisations that did have access, it was neither guaranteed nor unlimited in time and scope; as one respondent put it, 'once you have access, you are confronted by a whole range of restrictions'. Accreditation approval had to be renegotiated every month or three months: 'there are no guarantees that those who have access will be able to work in four months and this is the trademark of the authorities, to keep things uncertain'. Implementing humanitarian programmes in the DNR and LNR entailed negotiating every step of the way, and there was little control over the modalities of distribution, in particular needs assessments and monitoring in a context where the de facto

authorities 'worried about uncontrolled channels of communication between external actors and local populations'.

In addition to continuing with negotiations and efforts to obtain accreditation, the vast majority of international organisations with no physical access tried a number of different strategies, including working through local authorities (town and village mayors) and with local partners. The first was ineffective, in part because, as one interviewee put it, 'there is little respect by de facto authorities of local authorities. They were told to shut up and not talk to us'. Working in partnership was the preferred option, but this raised issues around compliance, oversight and transparency and 'managing these issues with [NGO] boards and donors'. While there was general consensus about the need to work through local partners, both donors and agencies were very aware of the risks involved in what amounted to remote programming.[20]

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20 For more on remote control, remote monitoring and third-party monitoring, see GPC (2014); SAVE (2014); Schreter and Harmer (2013); Collinson et al. (2013).

4 Local actors and the access problem in Ukraine

Local actors in Ukraine mainly comprised first responders: civilians who had organised themselves as the crisis in the east worsened. Although these groups – with the possible exception of the Akhmetov Foundation – could not match the scale and scope of the humanitarian operations international organisations could potentially implement, as access for formal aid organisations tightened in mid-2015 local actors in the DNR and LNR, and those operating across the contact line, became an increasingly important source of assistance for affected populations. Given restrictions on their operational space, local organisations concentrated on small-scale assistance that they felt the de facto authorities would tolerate, and focused on material aid, avoiding more sensitive areas of programming, such as psychosocial support and education.

4.1 A typology of local actors

All of the groups interviewed in the study were officially registered in Ukraine under the national charity law. Even volunteer groups based and active in the DNR and LNR tended to have official registration in Ukrainian law through branches in government-controlled areas. None of those we interviewed were accredited in the DNR and LNR; instead, they operated covertly, on a fragile and non-negotiated basis.

Local actors included charitable and civil society organisations that refocused their work to

support for conflict-affected populations, private philanthropic organisations such as the Akhmetov Foundation, church groups (both Orthodox and Protestant), organisations that had previously supported handicapped children and families with handicapped members, and orphanages.[21] These organisations had comprised the bulk of Ukraine's charity sector prior to the conflict, and many had a long history of receiving international grants, as well as locally raised funds. While the Akhmetov Foundation was funded from its founder's own resources, the more established organisations, charities and churches drew on individual donations, including from the diaspora, as well as using their normal funding channels and expanding to some extent to institutional donors (INGOs, UN agencies and government donors).

The bulk of the early response came from new groups composed of active citizens, mostly from the business sector. According to interviews for this study, in 2014 1,500 new NGOs were registered under the national charity law, and another 1,100 were registered in 2015. Often emerging out of the EuroMaidan demonstrations, these groups were generally loosely organised, and belonged to large networks of volunteers. Although their size and organisational structure varied, most comprised small cells of five to 20 volunteers linked to larger networks that could reach several hundred people. Some started informally before formalising their structure. This was the case

Table 1: Typology of local actors and their geographical presence[22]

Local actors interviewed	GCAs only	GCAs and NGCAs	NGCAs only	Total
Volunteer groups	13	13	1	27
Faith-based groups		4		4
Civil society organisations and private philanthropists	5	2	3	10
Total	18	19	4	41

21 For an overview of civil society organisations in Ukraine including those engaged on humanitarian issues, see OSCE (2015b).

22 This categorisation is primarily for ease of analysis; the distinction between the various types of local organisations is fluid and at times difficult to define.

for Station Kharkiv, for instance, and Vostock SOS, both of which subsequently became implementing partners of UN agencies.

Most volunteer organisations relied on peer-to-peer funding (crowd-funding, self-funding, using Facebook and other social media to fundraise with individuals, including from the Ukrainian diaspora), and did not have budgets or permanent staff members. This funding system was fast and enabled volunteer groups to react quickly to needs as they emerged. However, as the conflict became protracted, individual donations started drying up and volunteer groups struggled to find the funds they needed to respond. As a result, volunteer groups increasingly relied on institutional funding, usually through formal partnerships with international humanitarian actors. Many volunteers who could no longer support themselves without paid work joined international organisations as salaried staff. The volume of funding going to these volunteer organisations through peer-to-peer channels is unknown, and the study was unable to estimate total funding levels for these groups.

By and large, these organisations' activities would be familiar to an aid worker in any international organisation: delivering food and non-food items, facilitating access to urgent medical care (either through fundraising to buy and distribute drugs or arranging evacuation across the contact line), providing psychosocial support (solely in GCAs) and legal aid, registering IDPs and supporting emergency evacuations of civilians from towns and villages under shelling. Aside from organisations with formal partnerships with international actors, this assistance has not been systematically monitored, including by volunteer groups themselves, and its scale is unknown.

A final category of local actor comprises volunteer groups that supported both civilians and the Ukrainian military, providing clothing, footwear and food to Ukrainian soldiers on the frontline, and assisting wounded soldiers and the families of soldiers who had been killed. As one volunteer explained:

> We supported the military. Women organised help like cooking food, collecting clothes and knitting. The men delivered to the frontline. For us, it is important to show we are patriotic and educate people to be patriotic. In the framework of our school programme, school children also wrote letters to soldiers at the frontline.

These 'patriotic' groups also distributed *vyshyvanka*, the traditional Ukrainian shirt, to IDPs, as well as seeking to 'socialise' them into Ukrainian culture, as opposed to what was felt to be a stronger Soviet culture in the Donbas. Groups that provided support to the Ukrainian military appeared to find it easier to pass through checkpoints between GCAs and NGCAs. While there was some criticism of these groups among volunteers, few were concerned that their activities would affect their own level of access.

4.2 Collaboration and partnership: the dynamics of local interaction

With the exception of local volunteer groups providing support to the Ukrainian military, and the Russian emergency response ministry EMERCOM, there was close collaboration between various actors. Volunteer groups relied heavily on networks, and maintained strong operational collaboration with other volunteers, including coordinating logistics: 'we coordinate our work with other volunteer groups so it allows us to support each other, to double our efforts, strengthen our potential, and to coordinate logistics. We know who does what and can redirect people with specific needs to the right organisation'. Unlike other volatile and sensitive environments, local actors in Ukraine shared information widely within their volunteer networks, thanks in part to the solidarity engendered by their shared participation in the EuroMaidan protests, as well as the existing relationships underpinning faith groups and diaspora communities. However, more strategic collaboration was undermined by a lack of human resources and capacity. In two years of conflict, only one local volunteers' forum had been organised in the whole country. Although intended to strengthen collaboration and share information, the platform was not sustained, and collaboration among volunteer groups remained very informal.

There was also collaboration between local and international actors. At the time of the research, for instance, national NGOs accounted for a third of the membership of the NGO Forum based in Kyiv – a forum registered as a national NGO but staffed by international and national humanitarians – and many international actors and donors made Forum membership a partnership requirement. Local actors

also participated in formal coordination mechanisms, including the clusters, and operational hubs near the contact line facilitated more local cooperation with volunteer groups with a presence only in eastern Ukraine. There was also more informal collaboration with OCHA, the civil–military coordination system (CIMIC) structure and other international actors. One volunteer group explained that, while not formally in partnership with INGOs, it had helped identify families in most need of housing reconstruction, and had provided manpower to reconstruct homes in affected communities. Local actors interviewed for this study felt that, at times, collaboration with their counterparts from the international system was not reciprocal: 'when different international organisations wanted us to help them, we never said no. But when we ask for help, they rarely say yes'. Volunteer groups felt that their requests for support in responding to needs they could not cover or for funding too often went unheard or were sidelined by international organisations. Interviewees from local organisations also reported a sense that the way international organisations were funded meant that they focused more on the needs of their institutional donors than on the needs of affected people, and remarked negatively on what they saw as the competition and territoriality between formal humanitarian organisations. Despite being newcomers to the humanitarian sector, volunteer groups identified many of the critical challenges that the international humanitarian system is struggling with.

In terms of partnerships, it was unclear from this research whether international organisations prioritised partnerships with local counterparts simply because the access constraints they faced left them with few other means to reach people in need. One donor representative interviewed reported that, while one UN agency had initially partnered with an international NGO in NGCAs, when that agency lost access it turned instead to local groups as a last resort. At the time of the research partnerships had shown only limited success as an alternative access strategy, in part due to the scope and scale of volunteer work, and there were concerns over the implications for local organisations' access of formal partnerships with international counterparts. As one donor put it, 'we are trying to support them without bringing too much attention to them and expose them especially in light of the discourse on the Western devil'. These issues are explored more fully in the section below.

4.3 Access: ethical, principled, pragmatic?

There is a common assumption that local actors have better access in conflict contexts because they have a more nuanced and deeper understanding of local dynamics, but do not face the same access challenges as international organisations. This study, and the companion paper on access in Syria (Haddad and Svoboda, 2017), suggests that, in fact, local actors face many of the same access challenges as their international counterparts, and for most access to affected communities in NGCAs was at best fragile, restricted and sporadic.

For volunteer groups operational before the de facto authorities consolidated their power and prior to the introduction of the accreditation system in July 2015, the strategy was to maintain, rather than obtain, access: formal access negotiations were not felt to be necessary as organisations had not been told to leave, stop their operations or apply for accreditation; as such, they simply continued their work as they had previously, with access neither denied nor explicitly given. Local actors in NGCAs sidestepped the accreditation process by organising themselves into loose networks of volunteers or neighbourhood committees and diaspora groups, which were not required to apply for accreditation. While it was highly unlikely that the de facto authorities were unaware of their activities, by not actively stopping their work they were implicitly permitting their presence. Respondents explained that they maintained good relations with the authorities by keeping a healthy distance between them and staying away from sensitive political issues. A small number of local organisations also attempted to negotiate access through local facilitators such as the Orthodox Church (Moscow Patriarchate) or groups loyal to the de facto authorities.

Despite strategies such as these, some organisations were asked to leave the DNR, or were blacklisted by the de facto authorities. The Donetsk-based NGO Responsible Citizens, for example, was forced to stop its humanitarian activities in NGCAs in February 2016 (Protection Cluster, 2016b). The head of the organisation was detained and five staff members were deported. In a media interview, one staff member suggested that the de facto authorities had expelled the organisation for a number of reasons, including its partnerships with international organisations, the

competition it was seen to present to the authorities in the provision of assistance and the authorities' desire to clamp down on civil society ahead of upcoming elections (Setova, 2016). Several volunteers interviewed in the study believed they had been blacklisted because of their past affiliation with the EuroMaidan protests or other past political engagement, rather than their humanitarian work. Many interviewees also reported suffering violence at the hands of the de facto authorities, and a large number of volunteers had been detained and questioned.

In this context, many local organisations chose to operate 'under the radar' and 'take' access, rather than negotiate it. The approach was opportunistic, rather than systematic, dealing with obstacles and challenges as they arose. Using social media and networks of trusted volunteers in NGCAs, volunteer groups identified needs, raised funds and then crossed the contact line to deliver cash, drugs and food. Volunteer groups used the profiles of individuals among their networks (women, men, younger or older people) strategically to increase their chances of accessing populations in need. At checkpoints, for instance, women tended to attract less attention than men of fighting age, and were less likely to be searched. Material assistance and cash were delivered in cars, through people travelling alone as individuals rather than as members of a formal organisation and through the contacts and networks of individual volunteers living in NGCAs. Some of the more extreme strategies volunteers highlighted included driving through minefields to avoid official checkpoints or bringing medicines into the DNR using vehicles transporting other cargoes. The basic operational principle was to use all means available to circumvent the need to formally negotiate access and obtain accreditation from the authorities. In the study, only one volunteer group active on both sides of the contact line reported negotiating access with the de facto authorities as it sought to scale up its activities and partner with a large international organisation.

Local volunteer groups were not necessarily against using bribes to gain access, in both GCAs and NGCAs, and respondents – from both local and international organisations – repeatedly alluded to how money could solve anything in Ukraine, where corruption is widespread. Bribing Ukrainian government troops and armed groups manning checkpoints was generally seen as a small price to pay in order to gain access to NGCAs. Some volunteers even argued

that international organisations did not have access precisely because they refused to pay for it, though the study found no evidence through interviews[23] or in the existing literature to support this. There was some evidence suggesting pressure from the de facto authorities on humanitarian actors – international and local – to hire specific individuals, hand over beneficiary lists and allow the de facto authorities to distribute portions of assistance. Aid diversion was a significant risk; interviewees believed that the de facto authorities favoured giving access to organisations that would accept or provide an opportunity for aid diversion, and felt that international NGOs were not permitted to operate in NGCAs precisely because of the controls they had in place around diversion and their experience in preventing the misappropriation of aid.

Attitudes towards sensitive issues such as bribery for access at checkpoints may suggest a more flexible approach towards what one local respondent referred to as the 'classical' humanitarian principles of humanity, neutrality, impartiality and independence. As one local interviewee put it, in relation to what they regarded as the UN's insufficiently pragmatic approach to the accreditation debate, 'at the beginning it was necessary to be unprofessional'. For many local actors as well as some international actors interviewed for this study, the UN had taken a strict ethical line on the accreditation debate, failing to adopt a more pragmatic approach that would favour the principles of humanity and impartiality. Although initially unaware of the principles, by the time of the study sensitisation work by international organisations meant that local counterparts were largely familiar with them. The principle of voluntary service (understood as volunteerism or unpaid work by local groups) also resonated strongly: for many, doing unpaid work was the only genuine way to demonstrate a commitment to humanity, and several interviewees were openly critical of the careerism and salary-seeking that they believed marked out the work of international organisations. Transparency was also widely mentioned in relation to the importance these actors placed on accountability to affected people, and to the individuals providing the funds that allowed them to operate.

Although in interviews local organisations felt that their work was guided by the principles, in important respects they were understood, interpreted and applied

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23 The study did not directly ask international organisations whether they paid bribes to gain access.

in distinctive ways. Local groups providing assistance often had strong political views, usually in opposition to the de facto authorities in the LNR and DNR. For these groups, being neutral or apolitical meant not seeking political power or influence, rather than, as the international sector would interpret it, not taking a political position or taking sides in the conflict. The study could not conclusively determine whether the political allegiance of a particular organisation affected its ability to access NGCAs. The NGO Responsible Citizens was frequently mentioned as being too overtly political, and losing access as a result, while other groups that sought to align themselves with Russian civil society or with the Moscow-affiliated Orthodox Church appeared to enjoy better access.

Understandings of impartiality and targeting assistance based on need also appeared to differ. As one donor representative put it: 'they had to come away from the notion that humanitarian assistance was like a social programme. They thought of it as everybody should get assistance, not those people who need it most. That was another challenge in terms of being viable partners for other NGOs that could not get inside the territory'. As members of a former communist society, most local actors believed in equality of access to aid (i.e. universal assistance regardless of whether people needed it, or their degree of vulnerability). Targeting aid to the most vulnerable contradicted that belief. Impartiality was also not a consideration for the significant minority of local groups providing support to Ukrainian government troops.

While international organisations regarded it as 'hugely important to talk about humanitarian principles and the notion of humanitarian assistance' given how new this landscape was to local actors, training on the principles only seemed to raise doubts about the ability of international organisations themselves to follow the principles they were claiming to espouse. In interviews, volunteer groups felt that their values of volunteerism and accountability to affected populations meant that they were better able to put humanity at the forefront of their operational approach. Interviewees believed that their work was most valuable during periods of heightened insecurity, yet this was precisely when international actors suspended their operations because of security management protocols. As one respondent put it: 'why would they [international actors] put themselves at risk; it's not their war'. Local organisations also tended to regard their international counterparts

as partial by virtue of their membership of the Western humanitarian system, their reliance on institutional funding and their associations with Western governments that were clearly aligned with the government in Kyiv. By contrast, they regarded their independence as being safeguarded by their peer-to-peer funding models, which in their eyes also facilitated better responses to needs and promoted greater accountability to affected populations.

4.4 Access, visibility and scale: a crucial dilemma

The vast majority of volunteer groups operated on a small scale and sought to remain as low-profile as possible. As one volunteer explained, 'because we are small, nobody pays attention to us so we do not have major problems with the authorities. We choose not to become larger to avoid trouble'. Perhaps more than their international counterparts, local organisations were acutely aware of the need to avoid the impression that the assistance they were providing was somehow in competition with or a threat to the position of the de facto authorities. Providing assistance effectively, unobtrusively, and on a small scale, and focusing on tangible material aid, were identified as key aspects of local organisations' ability to take, and maintain, access. At the same time, however, local organisations were sensitive to the limitations of this approach in terms of the scope and scale of the assistance they could provide. As one respondent from a local organisation acknowledged, affected people in eastern Ukraine needed, not just food and blankets, but also support for employment and protection to address sexual and gender-based violence, landmine education and human rights violations. Choosing not to provide these forms of assistance for the sake of maintaining access was regarded as a significant compromise.

At the time of the fieldwork, interviewees from local organisations felt that the volunteer movement faced a dilemma. On the one hand, the need to scale up operations and find new ways to support their volunteers in the face of dwindling donations via informal, peer-to-peer channels compelled them to turn to more formal funding sources. This increased reliance on institutional funding, often through formal partnerships with international humanitarian actors, appeared to be forcing local organisations to

become more formalised and structured. It was also increasing competition between volunteer groups for formal contracts, endangering the initial collaborative networking approach that had been key to enabling small cells of volunteers to respond to needs, and forcing volunteers to work within strict project parameters, undermining their reactivity to unforeseen needs and the flexibility of their response. While no interviewees from volunteer groups questioned whether their newly found reliance on institutional funding through partnerships undermined their operational independence, they did highlight how institutional funding was changing the way they operated. Several interviewees from volunteer groups felt that growing 'professionalisation' was making some local organisations as bureaucratic and slow as their international counterparts, while a growing reliance on institutional funding rather than individual donations was seen to be shifting the focus away from affected people and towards reporting to institutional donors and the projectisation of assistance.

There was also a sense from interviews that closer relations with international actors risked compromising the access of local organisations by increasing their visibility. One INGO interviewed for the study had stopped trying to operate through local partners after the de facto authorities halted their activities following an increase in their scope and scale. International actors wanting to operate through local groups well understood the fragility of their access. As one interviewee highlighted: 'Local organisations in NGCAs are under a close watch and iron fist. These are local organisations that are heavily and tightly controlled – some of these organisations are only tolerated'. Some respondents believed that the expulsion of Responsible Citizens had been in part in response to new and increased partnerships with Western donors and organisations.[24] When, how and with whom to partner were not easy questions in eastern Ukraine.

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24 One interviewee mentioned that, while no local organisations had been expelled from Ukraine, some had had their registration with the government revoked. The study found no further evidence to support this.

5 Conclusion

In many ways, access in Ukraine was as much of a challenge for local actors as it was for their international counterparts. They faced the same restrictions and constraints on physical access, whether as a result of security conditions or the policies of the de facto authorities. For those who had access, maintaining operations focused largely on reducing visibility, and for those crossing the contact line, covert operations and the use of established networks were the main strategies employed. Rather than negotiating access, many volunteer groups active in eastern Ukraine simply took it, using their comparative advantage as small cells of individual volunteers working within larger networks, their reactivity and their flexibility, both in legal terms and in terms of the level of risk they were prepared to face.

The study also found a clear link between access and the effectiveness of humanitarian interventions. PIN, the ICRC, the Akhmetov Foundation and volunteer groups all responded early to the crisis, focused on implementing 'hard' activities such as the distribution of food and blankets, and approached the principles as an operational tool, rather than as a basis for negotiation (cf. SAVE, 2016b). The effective delivery of humanitarian assistance in ways that did not compete with the de facto authorities or cause them embarrassment also facilitated access, or at least helped ensure that the authorities' inclination to restrict access was balanced against the benefits of allowing assistance to get through.

The crisis in Ukraine is also revealing of some of the endemic systemic issues within the international system around access in conflict. International actors failed to establish a common approach to access, or to the de facto authorities' demand for accreditation. The failure to agree common 'red lines' on what did and did not constitute an acceptable degree of compromise at different points in the crisis meant that agencies were acting in isolation. As a result, as the ICRC and PIN were working to expand access and negotiate increased space for monitoring, assessment and protection activities, other INGOs and the UN were giving up on these exact same issues in their negotiations with the de facto authorities. Likewise, understanding coordination

as a single access strategy with one leading negotiator failed to make use of the comparative advantages some organisations had over others (including INGOs and local actors), ultimately resulting in a sub-optimal outcome for everyone involved. Finally, the authorities' lack of familiarity with the complex formal humanitarian system meant that the flood of organisations arriving in eastern Ukraine caused alarm and confusion, while the focus on assessments rather than responding to urgent needs created the impression of a lot of talking, and not enough doing.

Physical access by humanitarian organisations was only one reason why the needs of people in eastern Ukraine were not being effectively met. People's access to basic services was also being hampered by the restrictive policies introduced by the Ukrainian government controlling movement and access to social benefits and pensions for hundreds of thousands of people. An overwhelmed bureaucracy and contradictory laws made IDPs' access to registration and assistance difficult, even in government-held territories. This highlights the importance of defining access in broad terms, to include not just access for humanitarian organisations to people in need, but also their access to basic goods and services for survival and a dignified life. It also highlights the importance of advocacy on IDP rights, freedom of movement or any other challenges to people's access to services as part of a holistic access strategy, as well as its limitations in changing a government's position on politically sensitive issues.

The findings of this study highlight the extent to which access negotiations are linked to how an organisation operates on the ground – rather than its identity or the principles it claims to adopt. This strong link between access negotiations and operational approaches puts into question the ability of UN agencies and OCHA to negotiate access on behalf of organisations operating on the ground and directly delivering assistance. While not an alternative model but rather a reprioritisation, UN agencies and OCHA should consider taking on a more facilitative role – a role that they already play – for the delivery of humanitarian assistance at a more macro level, for instance by improving custom policies to facilitate incoming humanitarian cargoes;

the agreement of principles with national governments; mediating agreements on red lines and access strategies between international and local actors; the deployment of civil–military coordinators and processes; and gathering analysis and information to support organisations negotiating access on the ground. This would leave the responsibility for negotiating access with operational actors – those directly implementing and working more locally – coordinating with other humanitarian actors, with the mediation and facilitation of OCHA.

The factors influencing the physical access of humanitarian actors in eastern Ukraine highlight that access was not about a process of negotiation prior to operations, but a more nuanced process of acceptance through the actual delivery of humanitarian assistance. In Ukraine, access appeared to depend on whether the activities of humanitarian organisations were perceived by the de facto authorities as a threat or a benefit. Ultimately, access must be seen as a multi-phased process, whereby a pragmatic approach gradually allows a dialogue to develop based on principles, and designed to facilitate more sensitive activities such as protection.

More broadly, the study found that differentiation along the lines of 'international' versus 'local' was not helpful in understanding which organisations got access and why: as noted above, both groups of actors faced very similar restrictions and controls. The more important difference was in the tactics the two adopted in response. For local actors, this included reducing their visibility;

working through covert networks; and retaining the flexibility and reactivity to respond to needs as quickly and effectively as possible. International actors chose formal access negotiations, although approaches differed on accreditation and how far organisations should compromise on the types of activities they proposed for implementation. Local actors were able to act in ways that perhaps their international counterparts would find more difficult, because of concerns about ethics or humanitarian principles, but also for operational reasons, including the larger scale of their assistance activities and their relative inflexibility.

Local actors were highly critical of the way their international counterparts operated, questioning their motivations, ways of working and adherence to their own principles. At the same time, however, a growing recognition of their own limitations and lack of sustainability, both in terms of funding and staffing, meant that, at the time of the study, interactions between these two sets of actors were evolving, from what might be regarded as cohabitation towards collaboration, coordination and formal, contractual partnerships. While functionally necessary, there was a sense that closer and more formal relations were undermining the features of local actors that made them attractive partners to the international sector, taking away the very flexibility and reactivity that enabled them to respond where international actors could not. As the international system increasingly adopts a discourse of localisation, it will be important to acknowledge the risks and the benefits, on both sides, involved in closer partnerships with local aid actors.

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