Evidence Document: Gaps in International Humanitarian Law Regarding Humanitarian Access and the UK Government's Potential Role

RE: Humanitarian access and adherence to international humanitarian law (Inquiry)

Produced by: Dr. Doug Specht, University of Westminster

This document examines the gaps in international humanitarian law concerning humanitarian access and proposes potential roles for the UK Government in addressing these issues. The report specifically examines the gaps that relate to the use of user-generated content (UGC), volunteered geographic information (VGI) and crowd-sourced data, all of which are being increasingly used in humanitarian response, but which lack regulatory oversight (Specht, 2020a).

1. Current Gaps in International Humanitarian Law relating to crowd-sourced data.

1.1. Data Management and Utilization

One significant gap in international humanitarian law is the lack of a standardised framework for managing and utilising crowdsourced data during humanitarian crises. While the internet has enabled volunteers worldwide to collect and map data from various digital sources, humanitarian organisations often underutilise or ignore this information (Specht, 2020). This gap results in missed opportunities to improve the speed and efficiency of crisis response.

There is a lack of standardised frameworks for collecting and managing data in humanitarian crises (Specht, 2020). This inconsistency leads to challenges in comparing and aggregating data across different organisations and contexts. Standardisation in data collection methods would help improve overall data quality and enable more effective coordination among humanitarian actors.

The humanitarian sector faces significant challenges in sharing data between agencies and ensuring the interoperability of different systems (Specht, 2020). This limitation hinders the collective ability to respond rapidly and efficiently to crises. Improved data sharing could lead to more informed and transparent decision-making, more efficient humanitarian response, and increased trust among humanitarian actors.

The safe, ethical, and effective management of personal and non-personal data is crucial in humanitarian action (Zwitter and Gstrein, 2020). However, there is often a lack of clear guidelines on how to handle sensitive data, particularly in complex emergency situations. The disclosure of sensitive data can lead to already vulnerable people and communities being further harmed or exploited.

While there is potential for using crowdsourced and big data in humanitarian responses, there are challenges in validating and integrating this information into decision-making processes (Specht, 2020). Humanitarian organisations often lack the capacity to manage and analyse large volumes of data effectively.

There is insufficient emphasis on data preparedness and pre-crisis mapping in existing frameworks (European Commission, n.d.). Developing better data preparedness strategies could enhance the ability to assess risks, vulnerabilities, and needs of communities before crises occur.

Many humanitarian organisations lack the necessary capacity for responsible data management (Specht, 2020). There is a need for increased investment in training and resources to improve data literacy and management skills across the sector.

Addressing these gaps in data management and utilisation requires a collective effort from humanitarian organisations, donors, and governments. Implementing standardised data collection methods, improving data sharing protocols, enhancing ethical guidelines for data handling, and investing in capacity building for data management are crucial steps towards more effective humanitarian action.

1.2. Legal Standing of Remote Volunteers

There is a lack of clear legal provisions regarding the status and responsibilities of remote volunteers who collect and map data during crises. This ambiguity raises concerns about these volunteers' capabilities and legal standing, potentially limiting their involvement and utilising their contributions (Hunt and Specht, 2019). The legal standing of remote volunteers in humanitarian contexts remains a complex and often ambiguous area, presenting significant challenges for organisations and individuals involved in virtual volunteering. This gap in international humanitarian law has become increasingly relevant as technology enables more remote participation in crisis response efforts.

One of the primary issues is the absence of a clear legal framework specifically addressing the status and responsibilities of remote volunteers. As Cravens (2019) notes, despite years of inquiries to legal professionals, there has been little concrete advice on the legal implications of involving volunteers who work remotely. This lack of clarity can leave both organisations and volunteers vulnerable to potential legal issues.

The cross-border nature of remote volunteering introduces jurisdictional complexities. When volunteers living in one country provide services to an organisation based in another, it becomes unclear which country's laws apply in case of legal disputes (Cravens, 2019). This ambiguity can complicate matters related to liability, labour laws, and volunteer protections.

Organisations involving remote volunteers face challenges in managing risks and potential liabilities. While there have been no significant legal cases specifically involving online volunteers, the theoretical risks remain a concern for many organisations (Cravens, 2019). The inability to directly supervise remote volunteers and ensure compliance with organisational policies adds another layer of complexity to risk management.

Remote volunteers often handle sensitive information, raising concerns about data protection and privacy. As noted in the Guidelines for Working with Community Volunteers and Committees in Humanitarian Emergencies, "NGOs should treat issues with committees and volunteers with the same rigour, accountability and consistency as is accorded to internal staff" (ODI, n.d.). This principle should extend to remote volunteers, necessitating clear data handling and confidentiality protocols.

There is a risk of inadvertently creating employment relationships with remote volunteers. As highlighted by Support Cambridgeshire (n.d.), "If a contract is created with a volunteer, they could be awarded employee status, which in the worst-case scenario, could make them eligible for the national minimum wage backdated for the entire period of their volunteering." Organisations must carefully structure their relationships with remote volunteers to avoid this potential pitfall.

The gaps in legal standing for remote volunteers underscore the need for legal reform in this area. As humanitarian efforts increasingly rely on remote support, there is a growing imperative to develop clear legal frameworks that address the unique challenges of virtual volunteering. This may involve amendments to existing treaties or the development of new international agreements specifically tailored to the digital age of humanitarian assistance.

While remote volunteering offers significant potential for enhancing humanitarian efforts, the lack of clear legal standing for these volunteers presents ongoing challenges. Organisations engaging remote volunteers must navigate these uncertainties carefully, balancing the benefits of virtual assistance with the need for robust risk management and legal compliance.

1.3. *Data Validation and Trust*

Current international humanitarian law does not adequately address the validation of crowdsourced data. Humanitarian organisations often dismiss new and untested data sources due to a lack of time to assess their reliability, especially during acute emergencies (Specht, 2020b). This gap hinders the integration of potentially valuable information into crisis response efforts.

Humanitarian organisations often face difficulties in validating data, especially when it comes from new or untested sources. As Specht (2020) noted, there is often insufficient time to assess the reliability of data sources during acute emergencies. This time constraint can lead to the dismissal of potentially valuable information, hindering the integration of diverse data into crisis response efforts.

The issue of trust becomes particularly salient when dealing with crowdsourced data. While crowdsourcing can provide rapid and extensive information during crises, humanitarian organisations may be hesitant to rely on this data due to concerns about its accuracy and reliability. As highlighted in the IASC Operational Guidance on Data Responsibility in Humanitarian Action (IASC, 2023), ensuring the quality and reliability of data is crucial for informed decision-making that can save lives and optimise resource allocation.

Data validation in humanitarian contexts raises significant legal and ethical concerns:

i) Consent and Data Rights: Zwitter and Gstrein (2020) highlight the challenges of obtaining genuine informed consent from vulnerable populations, especially when balancing urgent needs against potential future risks.

ii) Data Protection Regulations: Many humanitarian crises occur in countries with limited or no data protection regulations, creating a legal vacuum for data management practices (ICRC, 2020).

iii) Extraterritoriality: Humanitarian organisations, particularly UN agencies, often operate outside the jurisdiction of host countries, complicating the application of data protection laws (Kuner and Marelli, 2020).

iv) Liability and Accountability: The lack of clear legal frameworks can lead to uncertainty regarding liability for data breaches or misuse (ICRC, 2020).

To address these challenges, several approaches have been proposed:

i) Standardisation of Validation Processes: The IASC (2023) recommends developing common standards and tools for data validation across the humanitarian sector.

ii) Collective Intelligence Approaches: A pilot study by the International Organization for Migration (IOM, n.d.) explored the use of collective intelligence to validate humanitarian data analysis.

iii) Capacity Building: As noted by DSEG (2020), there is a need to enhance data literacy among end-users, including decision-makers in governments, humanitarian organisations, and donor agencies.

iv) Transparent Methodologies: Specht (2020b) emphasises the importance of transparency in data collection and validation methodologies to build trust among stakeholders and affected populations.

1.4. Legal Frameworks and Compliance

The implementation of data responsibility in practice is often inconsistent within and across humanitarian response contexts. This inconsistency persists despite established principles, norms, and professional standards (IASC, 2023). To address this, humanitarian organisations must:

i) Navigate the varied applicability of legal and regulatory frameworks, particularly for personal data management (Kuner and Marelli, 2020).

ii) Develop clear protocols for data sharing with host governments and other stakeholders (ICRC, 2020).

iii) Establish robust safeguarding and compliance systems to protect both data subjects and organizational integrity (DSEG, 2020).

In conclusion, addressing the challenges of data validation and trust in humanitarian contexts requires a multi-faceted approach that balances operational needs with legal and ethical considerations. By focusing on these areas, humanitarian organisations can improve the quality and reliability of their data, leading to more effective and accountable humanitarian responses.

2. Potential Roles for the UK Government

2.1 Advocating for Legal Reforms

The UK Government could play a crucial role in advocating for reforms in international humanitarian law to address the identified gaps. This could include:
a) Proposing amendments to existing treaties or conventions to incorporate provisions for crowdsourced data management and utilization.
b) Initiating discussions at international forums to establish legal frameworks for remote volunteers in humanitarian contexts.

2.2 Funding and Supporting Preparedness Initiatives

The UK Government could allocate resources to support preparedness initiatives, such as:
a) Funding pre-crisis mapping projects in high-risk areas.
b) Supporting the development of regional digital humanitarian hubs (Specht, 2020).
c) Investing in research to identify areas at risk of humanitarian crises, using tools like the INFORM Risk Index (European Commission, n.d.).

2.3 Promoting Data Standards and Validation Processes

The UK could lead efforts to develop international standards for humanitarian data collection, validation, and utilisation. This could involve:
a) Collaborating with tech companies and humanitarian organisations to create standardised data validation processes.
b) Funding research into innovative data verification techniques for crisis contexts.

2.4 Capacity Building and Training

The UK Government could invest in capacity-building programs aimed at:
a) Training local communities in digital skills for data collection and mapping.
b) Educating humanitarian organisations on effectively integrating crowdsourced data into their operations.

2.5 Diplomatic Efforts

The UK could use its diplomatic influence to:
a) Encourage other nations to adopt and implement pre-crisis mapping initiatives.
b) Facilitate international cooperation in sharing humanitarian data and resources.

3   Conclusion

Addressing the gaps in international humanitarian law regarding humanitarian access requires a multi-faceted approach. By taking on these roles, the UK Government can contribute significantly to improving the global humanitarian response system, ultimately saving more lives and reducing the impact of crises worldwide.

4   Biography

Dr Doug Specht is a cultural geographer and educationalist. His research explores themes related to environmental justice, human rights, and access to education, with a focus on the production and codification of knowledge though cartographic artefacts and in educational settings. In recognition of his work, he has been appointed as a Chartered Geographer and Chartered Teacher. In addition, he has been awarded Advanced Teacher Status, alongside being a Senior Fellow of AdvanceHE. Dr. Specht has authored numerous articles and books, including Mapping Crisis, the Routledge Handbook of Geospatial Technology and Society, the Media and Communications Student Study Guide and Imagining Apocalyptic Politics in the Anthropocene. He writes regularly on ethics, environmental and human rights, education, and mapping practices in such publications as WonkHE, The Conversation, Geographical, and for Times Higher Education.

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