

DIRITTI COMPARATI

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HUMANITARIAN CORRIDORS: FAIRNESS TO INTERNATIONAL PROTECTION BY MEANS OF INTERNATIONAL HUMANITARIAN LAW INSTRUMENTS?

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1. The aim of humanitarian corridors in the International Humanitarian Law (IHL) was to seek mechanisms that would allow the effective provision of humanitarian assistance to civilians by victim's assistance agencies. Currently, humanitarian corridors continue to be negotiated with the states which exercise sovereignty or factual power over a territory, in case of conflicts, like in Ukraine or Gaza.

Humanitarian corridors can also be conceptualized as institutions designed to facilitate access to international protection in a safe country, regardless of whether there is an armed conflict in the country of origin.

In the first decades of the 21st century, the international protection regime dramatically revealed its two main shortcomings and sources of unfairness: (1) The lack of a mechanism of responsibility sharing among the so-called "safe states", in order to address the disproportional impact of forced migration on certain transit countries (which produces an unbalanced distribution of responsibility in terms of access to asylum and protection from *refoulement*); and (2) the shortage of safe and legal ways of entry for people in need of protection,. Many proposals have been

raised and some experiences have been tested to try to minimize this last limitation. This blogpost is aimed at exploring the characteristics of the humanitarian corridors in the international protection context. In both international regimes, the same tools have different purposes and personal scope within as will be explained in the subsequent paragraphs. Given the nature of the matter, this blogpost will give attention to humanitarian corridors from both IHL, and International Protection Law (IPL) framework, in particular, as a legal safe way to accede to a provisory asylum in a safe country. Finally, we will try to assess the potential of humanitarian corridors in the European asylum and refugee law becoming fairer by introducing a way of access to protection for asylum seekers, in a context of a strong infrastructure of control which ordinarily hamper the right to seek asylum

2. The idea of establishing humanitarian corridors was developed in the context of the humanitarian assistance doctrine to victims of conflicts at the end of the 20th century. In that context, it was considered essential to look for instruments legitimized by IHL and International Human Rights Law to allow the effective provision of humanitarian assistance offered by organisms dedicated to the protection of victims without this being interpreted as an interference albeit humanitarian in the conflict, in the state's internal affairs, and even without this signifying to take sides with the warring parties. In order to find ways of accessing the victims it was needed to soften the effects of the principle of sovereignty over the territory. For this reason, and due to the central role that territorial sovereignty plays in international law and in international relations (a factor "greatly overrated in international relations" according to [Thomas M. Franck, 1998, on line edition 2012](#)), the conditions and limits of the emerging standard of humanitarian intervention continue to be discussed and are articulated through principles and norms of informal international law and human security protection doctrines.

In the nineties, humanitarian corridors were configured by the UN as instruments intended to allow the safe provision of humanitarian assistance based on [Resolutions of the General Assembly](#). Afterwards, the International Institute of Humanitarian Law of San Remo, in Principle 10 of

the 1993 [“Guiding Principles on the Right to Humanitarian Assistance”](#), contended that:

“Humanitarian assistance can, if appropriate, be made available *by way of humanitarian corridors* which should be respected and protected by the competent authorities of the parties involved and if necessary by the United Nations authority.”

According to the [International Committee of the Red Cross \(ICRC\)](#), humanitarian safe corridors consist of agreements made among the parties to an armed conflict that allow the safe access through a limited geographical area and during a limited period of time with the aim to facilitate (a) exit of civilians from the conflict zone; (b) humanitarian assistance; or (c) evacuation of wounded people.

Humanitarian corridors are not regulated in international legally binding instruments (or so-called *hard law*) but, based on the principle of free access to the victim existing in IHL, they have been used several times even before its regulation through *soft law*. Humanitarian corridors have in fact been reported by the [ICRC](#) in the Spanish civil war (1936-1939) from Madrid to Valencia and from Bilbao to Donosti; in the Indonesia’s fight for its independence (1946-1948); in the war in Syria (since 2016) from Aleppo and Idlib to other safe areas; in the war in Ukraine (since March 2022) from Sumy, Mariupol, Zaporizhzhia, to other areas in the country or outside of it; and also in Gaza, allowing the evacuation in November 2023 of people through the Saladino road, airports or ports, or allowing on occasions the access of humanitarian supplies by sea in the Ashdod port. Furthermore, the denial of humanitarian access through obstructions to the functioning of humanitarian corridors is qualified as a *war crime* according to the Rome Statute of the International Criminal Court ([article 8.2 \(e\) \(iii\)](#)). The International Commission of Human Rights Experts on Ethiopia made positive findings on war crimes in the Tigray war (2020-2022) because of, *inter alia*, the deprivation of humanitarian access and assistance through humanitarian corridors by Ethiopian forces which dealt to a situation of starvation of the population of the region (Human Rights Council, *Report of the international Commission of Human Rights Experts on Ethiopia*, [A/HRC/51/46](#), 5 October 2022, paragraphs 96-97).

3. In the wake of the Mediterranean 2015 crisis and the inability of the EU public authorities to manage quickly and efficiently the situation, several international actors raised the desirability of establishing safe and legal pathways of entry into the EU for refugees who had already left countries in conflict. Somehow, this meant shifting the legal construction of humanitarian corridors from the IHL framework to the legal regime of International Protection. As explained above, under IHL, humanitarian corridors are routes for providing assistance on the ground or allowing the *exit* of victims from a conflict, whereas, under International Protection, they started to be conceived as a route for the legal *entry* into a safe country.

Under the current international protection regime, the safe legal ways of entry for purposes of international protection include: (a) The *third country solution* (that is, the resettlement of refugees from the asylum country to a third country); (b) humanitarian visas; and (c) humanitarian corridors (according to the European Commission, [Recommendation \(EU\) 2020/1364 of 23 September 2020](#)). All of them are interrelated and, sometimes, conflated in public and political discourse to meet certain political agendas.

Although the *third country solution* is the option preferred by the European Commission and EU member states (because allowing “the efficient management” of some arrivals of migrants which is one of the objectives of the EU migration policy according to [article 79](#) of the Treaty on the Functioning of the EU), it should be additional to the spontaneous arrival of asylum seekers in order not to hinder refugees’ access to the right to seek asylum. It furthermore denies *refugee agency* and serves the objective of refugee *containment* instead of offering more opportunities to look for a safe place ([Cathryn Costello, 2018, 647](#)). Resettlement is based on (a) voluntary pledges of states which commit themselves to reception and integration support programs for asylum seekers and to issuing residence permits to refugees, and (b) the identification of persons of concern to UNHCR ([EUAA, Asylum Report 2022, Section 4.16](#)). In 2015, the EU launched its first European Resettlement Scheme, with the aim of gathering all of the pledges of EU member states and fostering more

efforts based on European funding. Since 2015, 130.000 vulnerable people in need of international protection found asylum or some kind of protection in the EU through resettlement or humanitarian admission programmes ([EU Commission, “Resettlement and humanitarian admission”](#)). *Humanitarian Admission programmes* are conceptualised by the EU Agency for Asylum (EUAA) as “complementary pathways to international protection” or as “safe and regulated avenues for refugees” which complement resettlement, as the main predictable way of access ([EUAA, Asylum Report 2022, Section 4.16.3](#)). “Complementary pathways” and “humanitarian admission programmes” comprise a variety of programmes and activities where different actors are involved: the stakeholders may be public (agencies of regional governments, municipalities, etc.) or private actors (individuals, companies, NGOs or faith-based groups); and the beneficiaries are broadly defined (refugees, families, vulnerable people, etc). Moreover, the protection outcomes range from temporary protection to medium- or long-term protection.

The EUAA considers as “complementary pathways for admission”: (a) *Humanitarian admission programmes*, which are usually used in situation of crisis and allow access to a short-term protection for humanitarian grounds; (b) *Community Sponsorship’s Programmes*, which require the engagement of private actors such as individuals, companies, and organisations to offer reception, accommodation and means of integration in host societies (they have been developed in Finland, Germany, Ireland, France and Italy , and Spain , among other countries); and (c) *Complementary education pathways*, which allow refugees to move to a third country for purposes of higher education.

One of the components of complementary pathways in the regime of international protection are the *humanitarian corridors*, in particular, to implement “humanitarian admission programmes” and “community sponsorship programmes”. The humanitarian crisis in Afghanistan in 2021, for example, fostered the resettlement from third countries, humanitarian admissions, and evacuations as well as the High-level Forum on legal pathways to protection and resettlement cooperation which proposed to establish humanitarian corridors for Afghan refugees

seeking international protection. *Community Sponsorship programmes* frequently contemplate arrivals through humanitarian corridors and are often established in Memorandums of Understanding (MoU). The most important example in this area is the [humanitarian corridors model](#) established in the context of a self-financed private sponsorship programme by the Sant' Egidio community and the *Federazione Chiese Evangeliche Italiane* (FCEI). In 2016, they signed a MoU with the Italian ministry of the Interior and ministries from other countries (France, Belgium and Andorra) for the opening of humanitarian corridors to allow the evacuations of civilians from several countries (Lebanon, Ethiopia, Niger, Jordan, Libya, etc.). The total number of people relocated to Italy through humanitarian corridors promoted by the Sant' Egidio community and the FCEI is 5.248 (while 770 more people were relocated to other locations) and the number of people resettled to Italy through the EU official resettlement scheme is 5.505 (Federica Franzè, "The Humanitarian Corridors: Combining Safety and Solidarity in a Solid Model of Reception", *Poster* presented at the conference *Inequality and Fairness in Refugee Protection*, 7th Annual Conference of the Refugee Law Initiative-University of London, 21 - 23 June 2023). These numbers show that humanitarian corridors are a non-negligible legal safe way of entry which, if replicated in other countries, would have the potential of turning IPL fairer.

In the same vein, the [COMET](#) (COMplementary pathways nETwork) is an ongoing project in which the *Fons Català de Cooperació al Desenvolupament* (Catalan Fund for Development Cooperation, a non-profit organization made up of local councils and other supralocal bodies of Catalonia) participates with other organisations located in Italy, France, Germany and the Netherlands. The project goal is to create 130 new places for people in need of protection coming from the Central Mediterranean route. This project was intended to open a new humanitarian corridor as a replicable complementary pathway for safe and legal entry, based on the compromises of reception made by municipalities. Nevertheless, governments of the participating states have the competence to admit these corridors and issue the entry permits or "humanitarian visas" allowing protected individuals to arrive to each country and, sometimes,

they are not willing to accept new instruments compromising new arrivals. The project has the potential to engage other public authorities than states and to create synergies with private entities able to foster additional and nimble ways of entry.

4. In summary, in the IHL regime, the humanitarian corridors are instruments aimed at facilitating the departure of civilians from conflict zones or at accessing the victims, in contrast, in the IPL humanitarian corridors work as instruments to facilitate the entry into a safe third country of refugees or other people in need of protection. In both cases they are instruments with the potential to contribute to softening the consequences of territorial sovereignty. In the first case, the sovereignty of the state in conflict from which victims need to flee; in the second case, the sovereignty of the states receiving refugees in the EU or other safe areas which have developed instruments to intensify the control of its borders to the point of hindering the right to flee. Nevertheless, in both cases, we see how sovereignty of the territorial state is still crucial: in IHL consent is needed to organize evacuation of victims of wars; and in IPL this consent is given expressly in MoU. While humanitarian corridors have been opened for the evacuation of civilians in Ukraine and most recently a few times in Gaza, complementary pathways to admission are increasingly proliferating even if they have not reached to be a definite alternative to the irregular unsafe pathways.

In the framework of the international protection, the *humanitarian corridors* can be conceptualised as instruments of safe and legal transfer of vulnerable people or people in need of protection (refugees, asylum seekers) from a country of transit towards a third country of destination which usually include a model of reception and inclusion supported by private sponsorships or solidarity networks. They are usually established in agreements or MoU between the government of one state and one or several organisations which will take care of the third country nationals and will take charge of their reception and of the related financial costs. Past experiences demonstrate that, in some countries, humanitarian corridors have been successful and complement the regular safe legal entry of refugees through resettlement in a number that allow to receive

twice as many people. Nevertheless, the success of humanitarian corridors depends on the cooperation of different actors: potential host and transit states (which have to issue the permits or visas to enter to the territory); and private organisations or networks of public and private entities which will manage the reception in adequate conditions.

Humanitarian corridors in the IPL mean that refugees or other people in need of protection will be able to exercise the right to seek asylum by acceding to a safe host country. Humanitarian corridors as legal and safe ways of entry have the potential to rebalance efficiency (provided by the EU infrastructure of control) and fairness, which in this context means the protection of the most fundamental HR of all human beings enshrined in the values of the EU. Among the legal instruments aimed at developing the New Pact on Migration and Asylum, the [Regulation \(EU\) 2024/1350 of 14 May 2024](#) establishes a Union Resettlement and Humanitarian Admission Framework which introduces some common rules (eligibility for admission; grounds for refusing admission) and the proposal of adopting biannually a Union Resettlement and Humanitarian Admission Plan. The Commission should adopt the proposal for the first Plan in 2025 (for the period 2026-2027) and it would be desirable that the number of humanitarian admission pledges and the functioning of the mechanism allow to create a reliable tool to palliate one of the flaws of the IPL in regard to the access to the protection.