

Principled humanitarian assistance and non-State armed groups

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The humanitarian community needs to develop a better shared understanding of how to provide principled assistance in areas controlled by proscribed groups.

The principles of humanity, impartiality, neutrality and independence are intended to enable, characterise and guide the delivery of humanitarian assistance. However, as conflicts grow more complex, interpretations of humanitarian principles are being questioned, particularly in areas under the control or influence of proscribed non-state armed groups (NSAGs). Delivery of aid in these areas may clash or be perceived to clash with principles of public accountability and transparency – principles which are paramount for many donor States.

In several recent conflicts – particularly in protracted conflicts such as those in Syria, Afghanistan, Iraq and Somalia¹ – the most vulnerable people are located in areas which are (or have been)² controlled or heavily influenced by NSAGs such as the Islamic State, Al Qaeda and Al Shabaab and their affiliates. NSAGs such as these have been designated as terrorist groups by donor governments – and in some cases also by the UN. To reach the populations at risk, however, humanitarian actors need to engage with NSAGs, often through remote operations or through overcoming access restrictions. Engagement therefore entails an increased risk of aid diversion in a context where there are limited guidelines for acceptable degrees of risk. Recent compliance developments designed to ensure that aid supports the public good include tightening of anti-terrorism restrictions and reinforcing financial controls. In practice, these have reduced the ability of non-governmental organisations (NGOs) to reach the most vulnerable, in large part due to increased risk aversion and lack of clarity around the precise nature of the rules and regulations.

Civilians in areas heavily influenced or controlled by NSAGs are frequently

worse off than civilians in other areas due to the general lack of goods and services and the specific protection risks affecting vulnerable populations, including targeting of religious or ethnic minorities. Markets are disrupted because of obstructions in the transport network, such as fees being demanded at checkpoints. Supply chain difficulties are often exacerbated by the fact that NSAGs do not prioritise civilians in the distribution of goods. Services are halted due to reductions in government personnel and uncertainty surrounding political power dynamics and control.

Overall, interruptions in markets and services have a disproportionate effect on the most vulnerable as the poor are less likely to be able to afford price increases. In some cases NSAGs may take measures that reduce the well-being of the most vulnerable, for example by levying informal taxes on civilians or by excluding particular groups (often religious and ethnic minorities) from accessing goods and services. Provision of impartial needs-based assistance requires humanitarians to take active measures to reach populations in areas controlled by NSAGs.

How do we negotiate access?

Humanitarian agencies are accustomed to working on humanitarian access issues in a variety of contexts. Several policies and guidelines have been developed by donors such as Swiss Solidarity and the UN Office for the Coordination of Humanitarian Affairs and by individual NGOs, and include mention of negotiating access with NSAGs. In practice, negotiation may include measures that are at the edge of compliance and transparency rules. For example:

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Trusted negotiators: Many negotiators are those with strong (typically familial) links to NSAGs – and are naturally, therefore, unlikely to pass donor checks designed to ensure that staff do not have links to a proscribed group.

Checkpoint fees: Physical access to areas controlled by NSAGs is often controlled by a series of checkpoints. To pass these checkpoints, humanitarian actors or contractors engaged by them often need to pay to be included on an ‘access list’ and then to pay small additional fees at individual checkpoints. Humanitarian actors can ‘transfer risk’ by having suppliers transport goods but the outcome is the same.

Procurement processes: The number of suppliers in these areas is often limited and those that are present often have limited literacy skills. NGOs and UN agencies have comprehensive procurement procedures, and potential suppliers therefore need to complete complex registration and tender forms and present business licenses/ registration, such as a tax number. In general, very few suppliers have this capacity, and those that do are often linked to NSAGs, either through payment of ‘facilitation fees’ or through familial links. As such, following the required procedure often means accepting diversion through a third party.

Access negotiations:

Negotiations often involve fielding requests from NSAGs that would divert resources. Common requests include adding family members to beneficiary lists, providing assistance to privileged ethnic groups, and providing assistance that can be diverted by armed forces. Often NSAGs ask to access or ‘vet’ beneficiaries.

What risks are there?

Current procedures and protocols around access negotiation involve

significant risks for humanitarian actors, donors and beneficiaries. Field actors do put mitigation measures in place but these measures are sporadically applied. Some of the primary risks include:

Reputational risks: At the field level, hiring the wrong negotiator, working with the wrong supplier or the geographic location of aid provision may lead to a perception that the humanitarian actor is biased in favour of the NSAG. In turn, this may lead to reprisals by government authorities in other areas, distrust from target communities, and challenges in coordination and resource sharing with other actors.

Financial risks: Humanitarian actors face finance-related compliance risks. For instance, attempts to widen supplier bases may result in incomplete or incorrect paperwork; this in turn may generate a situation in which an audit identifies disallowed costs. This may leave humanitarian actors with fewer resources to reach out to vulnerable populations, and may undermine their ability to secure funding in future.

Risks to national and international staff:

Hiring staff with close links with NSAGs may offer some advantages of access to and acceptance by target communities



UNHCR airlift to Mogadishu, Somalia.

but also comes with risks, including the possibility of these staff deliberately excluding certain beneficiaries. It might also be risky to terminate the contracts of these staff if performance issues are identified or a code of conduct is breached, as the staff may engage in reprisals.

Compliance and diversion

Major humanitarian donors have explicit commitments to humanitarian values such as the importance of providing needs-based assistance, and statements made by major donors on access suggest implicit acceptance of compromises made to gain access to areas controlled by NSAGs. Equally important for donors are accountability and transparency. States which provide humanitarian assistance have an obligation to their taxpayers to ensure assistance is appropriately and transparently used, and this may mean stricter and more administratively burdensome requirements surrounding funding use and documentation – and that the compromises used by practitioners to gain access become open to question. While these tensions are not new, the proliferation and increasing influence of armed groups have brought these issues to the fore. In recent years, compliance restrictions have become more acute due to several factors, including:

Counter-terrorism legislation: Donors expect NGOs to ensure compliance with the extensive counter-terrorism legislation that has been enacted since 2001. If humanitarian actors become aware that donor funds are being used by proscribed NSAGs, they have an obligation to notify their donors. These obligations are relatively clear on paper but become murky in a context where humanitarian actors use negotiation tools such as the ones described above or when the lines between civilian and NSAG affiliates are blurred.

Shifts in financial regulation: Following the 2008 financial crisis, banking regulations tightened, restricting the operations of some money transfer agents (*hawalas*) used to transfer money to countries with

disrupted financial and regulatory systems. It is frequently unclear how *hawalas* gain access to areas controlled by NSAGs, yet NGOs are often reliant on them for implementing cash programming as well as paying staff salaries and other operational costs, frequently channelling millions of dollars through these systems annually.

Monitoring of aid: Since 2010, there has been increasing monitoring of aid organisations, with more audits and with significant penalties being imposed for infringements. Restrictions have grown to the point that major donors are having public discussions about putting geographic restrictions on aid, reducing the capacity of aid agencies to operate in certain areas and putting the principle of neutrality at risk.

Ways forward

In an environment of murky choices, humanitarian actors and donors need to build a broad-based and steadily more explicit consensus regarding what constitutes acceptable risk when negotiating with NSAGs. We need to foster an environment that facilitates an honest appraisal of issues and challenges, encourages reporting and supports collective discussion. We propose:

Research into access and dissemination of best practices: Some research has been conducted, including the Secure Access in Volatile Environments (SAVE) programme operated by Humanitarian Outcomes,³ but additional initiatives are needed. Research should have two components – identification of effective factors that promote access and resolve contradictions between access and compliance, and identification of activities or initiatives that are unacceptable.

Standard operating procedures (SOPs): One of the most significant challenges for humanitarian personnel in the field is understanding how to translate policy and guidelines into practice. The parameters differ significantly depending on country context and, in some situations, local contexts. Explicit discussions between donor

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groups and field actors and agreement on common SOPs will help to remove some of the uncertainty around implementation. Moreover, it will help ensure standardisation between different field actors, supporting a more consistent approach to delivering aid.

Collective positioning: Experience points to the strength and utility of humanitarian stakeholders agreeing collective positioning. This would be best systematised through creating – or investing in increasing the capacity of – a neutral entity able to represent and lead on negotiating and sustaining access. This entity must coordinate with humanitarian agencies and engage local partners to identify and report challenges and to build a strong evidence base.

Global Compact on Humanitarian Principles: Initiatives such as the World Humanitarian Summit and the Grand Bargain have succeeded in clarifying several complex issues facing the humanitarian community and uniting the international community around core commitments

for change. A similar Global Compact process could be initiated for the principled delivery of humanitarian aid in areas controlled by NSAGs, where concerns about humanitarian principles may help to build consensus around central issues such as access and diversion.

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The views expressed in this article are the authors' personal views and do not necessarily represent the views of any agency.

1. All authors worked in Iraq in 2017–18 for the Danish Refugee Council, and also have experience in other countries including Afghanistan, Somalia, Syria, Sudan and South Sudan.
2. Loss of control of a territory still presents challenges due to the potential for dispersal of members of such groups.
3. www.saveresearch.net