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Humanitarian negotiations with armed non-state actors: key lessons from Afghanistan, Sudan and Somalia

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Key messages

- It is essential for aid agencies working in conflict situations to engage with all parties to the conflict in order to reach civilians in need of assistance and to advocate on issues of protection. Accessing areas under the control of armed non-state actors (ANSAs) requires careful and sustained dialogue.
- Effective engagement with armed groups requires significant staff time and resources and capacity, which many aid agencies have not sufficiently developed or prioritised.
- Joint advocacy and more closely coordinated action are required by aid agencies to tackle the broader challenges to engagement with ANSAs, particularly counter-terrorism legislation and other policies designed to obstruct humanitarian dialogue.

Insurgents and other armed groups are often seen as inherently predatory and hostile to aid workers, attacking staff, extorting money and looting goods and equipment, denying access and expelling aid organisations from areas under their control. Yet in-depth analysis of armed groups has been largely neglected in the literature on humanitarian principles and aid worker security, and aid agencies often lack the information they need to successfully engage with these actors to gain access to populations under their control.

This HPG Policy Brief summarises key lessons from a two-year research project on humanitarian negotiations with ANSAs in Afghanistan, Somalia and Sudan.[1]

1 The research project included over 500 interviews with aid workers, members of armed groups and others. Individual case studies and other material from the project, 'Talking to the Other Side: Humanitarian Negotiations with Armed Non-State Actors', are available on the ODI website at www.odi.org.uk/projects/2430-humanitarian-negotiations-non-state-armed-militia-rebel.

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Photo: Members of Al-Shabaab in southern Somalia
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Lesson 1: Comprehensive analysis and understanding of armed groups is essential

While rarely openly discussed, negotiations between aid workers and armed non-state actors are widespread and in many cases essential to the survival of civilians living in areas these actors control – so much so that all of the armed groups examined in this research had established sophisticated structures and policies for dealing with and regulating aid agencies.[2] This regulation was part of broader governance structures developed as armed groups gained territory and influence, covering the provision of justice, taxation and basic administrative functions, developed both to control civilian populations and enhance the image of the armed group as a viable alternative to the government. Not unlike fragile governments unable to deliver basic services themselves, these armed groups relied on aid agencies to bridge the gap.

Willingness to allow aid agencies to operate is largely driven by self-interest, and so understanding the motivations and objectives of specific armed groups is critical. Armed actors may also be more mindful of International Humanitarian Law (IHL) or willing to permit aid agency access in the hope that doing so will earn them greater legitimacy among the international community (as with the Sudan People's Liberation Movement-North (SPLM-N), for example). Other groups may compel aid agencies to hand over relief items so that they can take credit for their delivery (as with Al-Shabaab). There are also instances where armed groups may perceive that it is more beneficial to their interests to attack or expel aid workers than allow them to work safely (as with Al-Shabaab and the Taliban).

These aims and objectives are not static, and can change rapidly in response to changing circumstances. Consent for humanitarian access is subject to military imperatives. This is in turn dependent on the relative military strength of the group, and consent is likely to be limited when groups are on the defensive. Shifts within an armed group and in the dynamics of the conflict must be monitored closely. This is essential not only to ensure the safety of aid workers, but also to enable aid agencies to identify opportunities for negotiation. However, such analysis requires significant staff time, resources and capacity that many aid agencies have not sufficiently developed or prioritised.

Lesson 2: Effective engagement requires a clear strategy and dedicated resources

Approaches to engaging armed groups are often *ad hoc*; few agencies have a clear strategy for establishing and maintaining access, implemented consistently up and down the organisation. In volatile environments, many are reluctant to engage directly or explicitly with armed groups. Instead, the vast majority pursue 'community acceptance' to secure access, relying on community members to negotiate with armed groups on behalf of the aid agency. Senior managers are often unaware of how ground-level staff obtain access. As one senior representative of an international NGO in Afghanistan put it, 'we trust our people in the field [and allow them to] gauge risk and then do what's needed to get the programmes done … we don't discuss it internally much'.[3]

That agencies seek to avoid engagement with armed groups is hardly surprising. Pressures exerted by donor and host governments not to engage with armed groups are profound. In Somalia, counter-terror restrictions essentially criminalise engagement with Al-Shabaab, and the Afghan government's expulsion of two Western diplomats conducting political talks with the Taliban in 2007 had a chilling effect on political and humanitarian dialogue. In Sudan, aid agencies that engage with the SPLM-N in South Kordofan risk being expelled by the government.

At the same time, however, ad hoc approaches frequently result in the downward transfer of responsibility to field staff and community members. Many senior aid agency representatives in Nairobi strongly rejected the claim that they talked to Al-Shabaab, while aid workers on the ground in Al-Shabaab areas, often from the same agencies, consistently reported that they directly negotiated with the group as a matter of necessity, without directly informing their superiors. Such approaches are often fragmented and inconsistent. Conversely, the very few agencies that have developed a coherent strategy for engagement with armed groups, and have invested in the requisite capacity to implement it, have had greater and more sustained access. With the development of internal redlines and decision-

2 An exploration of these structures is included in the case study reports. See also Z. Mampilly, *Rebel Rulers: Insurgent Governance and Civilian Life During War* (Ithaca, NY: Cornell University Press, 2011).

3 A. Jackson and A. Giustozzi, *Talking to the Other Side: Humanitarian Negotiations with the Taliban in Afghanistan*, HPG Working Paper (London: ODI, 2012), p. 5.

making processes, they were also more likely to pursue negotiations in a consistent and 'principled' manner. Even where local staff undertook the bulk of direct negotiations, risk and decision-making were often shared with senior managers, and greater support was available to field-level aid workers in direct, and often daily, contact with armed non-state actors.

Lesson 3: Engagement must happen at multiple levels

Humanitarian negotiations are most successful when aid agencies develop relationships with armed actors at all levels. Engagement with the leaders of an armed group provides additional assurances that access will be granted, and channels for resolving issues that arise in the field. High-level engagement is essential on issues of protection, given that military policy is governed from above (the inclinations of local commanders may play a more important role in access matters). It provides an opportunity to engage on policy issues, such as vaccinations or aid agency vetting and taxation, that talking to local fighters alone, who are often simply following orders, does not.

Dialogue with the rank and file is required to ensure compliance with any agreement reached with the group's leaders. In Afghanistan, an international multi-mandate aid agency described its engagement as occurring at three key levels. At the leadership level with the *shura* in Pakistan, engagement focused on formal agreement and ensuring that this was passed on to field commanders. Engagement with Taliban shadow governors or military commissioners focused on activities and local policy issues. Ground-level engagement was largely conducted through intermediaries in the community. An international humanitarian agency operating in South Central Somalia described its engagement in similar terms. Senior managers in Nairobi communicated with the Al-Shabaab senior leadership *shura* through intermediaries to obtain broad permission and resolve issues raised by their field staff. Field staff generally engaged directly on programme details with Al-Shabaab Humanitarian Coordination Officers.

Lesson 4: Maintaining neutrality, independence and impartiality is integral to gaining acceptance for humanitarian activities

How aid agencies were perceived was a critical factor in whether armed actors were willing to negotiate with them. Views of aid agencies are strongly influenced by the geopolitical and historical context. Agencies were commonly viewed with suspicion. In southern Afghanistan, counter-insurgency tactics negatively influenced Taliban perceptions. Many reported that they had been amenable to granting aid agencies access, but their views changed when they saw agencies increasingly working only in government-controlled areas and coming into previously Taliban-held areas after they had been 'cleared' by international forces. This confirmed Taliban suspicions that agencies were aligned against them. In South Kordofan, by contrast, successful negotiations with the Sudanese government to allow crossline access into SPLM-N areas during a previous period of conflict shaped the SPLM-N's high expectations of the international community.

Among local fighters, perceptions were influenced more by personal encounters with or direct observations of aid agencies. At one end of the spectrum, there was a Taliban fighter who felt positively about aid agencies because his father worked for a UN agency; at the other, a fighter in a neighbouring district felt that the poor-quality programming of one agency demonstrated that it was there only to spy on the Taliban and could not be trusted. Armed groups devote significant resources to surveilling agency activity, with sophisticated systems of monitoring and reporting. Unsustainable work that was not seen as driven by civilian priorities reinforced the suspicion that aid agencies were siding with 'enemies' of the armed group (i.e. Western or host governments). The consequences for 'spies' were severe, including executions, expulsions and attacks on aid workers.

While there is little aid agencies can do to influence the geopolitical context, there are clear steps they can take to influence perceptions. Where they exist, drawing on past positive associations with aid agencies may increase leverage. At local level, undertaking good-quality programming aligned with needs identified by the community and adhering to plans shared with armed actors at the outset is critical. It is also essential for aid agencies to actively cultivate perceptions of their work as neutral, independent and impartial. Since 9/11, aid agencies have come under increasing pressure to contribute to 'stabilisation' and 'counter-insurgency' activities. Effective engagement with armed non-state actors requires agencies to consistently demonstrate independence from these efforts (including government-led programmes, stabilisation projects and 'hearts and minds' activities) and avoid any

activity or public statements that may be construed as supporting the government or other belligerents. In instances where multiple armed groups are active, effective engagement also requires aid agencies to carefully consider and balance their relationships to avoid being perceived as supporting one over another.

Lesson 5: Greater transparency about the risks and compromises of engagement is needed

Few aid agency staff share complete details of access negotiations with their headquarters, other aid agencies (even those operating in the same geographic area) or donors. Internal transparency is profoundly lacking when it comes to talking to armed groups. While agreeing to pay Al-Shabaab registration fees was common practice among the agencies operating in areas under its control, field staff rarely discussed this with their superiors in Nairobi. Such 'don't ask, don't tell' approaches pose significant security, legal and other risks. Outward accountability to donor governments and the general public is also important. Some aspects of engagement with armed groups are likely to be kept confidential to ensure staff safety or avoid jeopardising negotiations, but the degree of secrecy and fear that surrounds dialogue in places like Afghanistan, Somalia and Sudan is counter-productive and dangerous.

Lesson 6: Coordinated action and advocacy is required to tackle the broader challenges to engagement

Many aid agencies prefer bilateral engagement and feel that greater coordination or information-sharing is neither feasible nor desirable given legal concerns and general distrust amongst many aid agencies. While grand negotiated access schemes akin to Operation Lifeline Sudan (OLS) may be unrealistic and joint negotiations unfeasible in many situations, there are several areas where greater information-sharing and coordinated action could improve the prospects for access.

The first is with regard to analysis. The resources required to analyse armed groups and conflict dynamics are immense, and the task is continuous. Shared information-gathering and analysis can be an effective solution, and there are several successful models that can be replicated. The UN Office for the Coordination of Humanitarian Affairs (OCHA) and the UN Department of Safety and Security (UNDSS) played a valuable role in mapping armed groups and establishing contacts early in the Darfur conflict, while the International NGO Safety Office in Afghanistan (INSO) has generated useful conflict analysis based on NGO security reporting. In some instances, aid agencies have pooled funds to resource these operations, and donors have bilaterally supported others.

Secondly, there is a very real risk that aid agencies will be played off against one another and undercut if they have not established common agreement on red lines or informal 'ground rules'. Al-Shabaab exploited the secrecy and division among aid agencies when extorting payments in exchange for access by telling aid workers that 'all of the others are paying'.[4] On key issues such as payments more is likely to be gained by collective bargaining – or at least a common bargaining position – than acting alone.

Finally, there are some obstacles to humanitarian engagement with armed non-state actors that cannot be overcome by individual aid agencies. Counter-terror legislation, as in Somalia, and host government access bans, as in Sudan, require a common position and high-level, coordinated advocacy and policy dialogue. The UN Secretary-General's Report on the Protection of Civilians in Armed Conflict of November 2013 is a positive step forward in reiterating the importance of 'consistent engagement by humanitarian agencies with all parties to armed conflict' and calling upon 'Member States to ensure that counter-terrorism laws and measures include appropriate exemptions for humanitarian action'.[5] The UN is well placed to aid in these efforts, but donor and host governments have an essential role to play. Donor governments should engage in regular dialogue with humanitarian agencies about the impact of their policies, including counter-terrorism restrictions, and encourage investment in humanitarian negotiation capacities. Aid agencies must also exert the full weight of their influence as a humanitarian community in pressing governments to remove barriers to, and provide greater support for, humanitarian dialogue with armed groups.

4 Jackson and Giustozzi, *Talking to the Other Side: Humanitarian Negotiations with the Taliban in Afghanistan*.

5 UN Security Council, 'Report of the Secretary-General on the Protection of Civilians in Armed Conflict', S/2013/689, 22 November 2013.