

# Briefing

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## Towards a Principled Approach to Engagement with Non-state Armed Groups for Humanitarian Purposes

### Summary

- The challenge of meeting the humanitarian needs of people affected by conflict in areas controlled by non-state armed groups (NSAGs) is growing in complexity.
- States – whether party to or supporting a party to a conflict, or aid donors – can fund, facilitate, complicate or block humanitarian organizations' responses to these needs as well as their engagement with NSAGs for operational purposes.
- A wide range of factors determine states' policies and actions, such as: political, military and counterterrorism objectives; the number, character and behaviour of NSAGs; the mandates, actions, and other parties' experiences with and perceptions of humanitarian organizations; security and socio-economic conditions; the relative financial importance of aid; and public opinion, local or international, with regard to humanitarian suffering and need.
- Many humanitarian organizations are seeking greater clarity both from donor states and from states party to conflict regarding the basis on which consent will be provided, or at least not withheld, for their engagement with NSAGs.
- More realistic will be an ongoing dialogue among states on the principles that determine operationalization of consent consistent with international humanitarian law (IHL) for humanitarian operations including in areas under the control of NSAGs. This dialogue would benefit from input by humanitarian organizations and, where appropriate, NSAGs or former NSAGs.
- This briefing, including a set of emerging core propositions, is based on research and consultations undertaken by Chatham House with a view to understanding the dynamics that will determine support for a principle-based approach to engagement by humanitarian actors with NSAGs.



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## Background

Non-state armed groups (NSAGs) in armed conflicts can protect or endanger civilians. Their number and diversity has proliferated in recent decades, presenting new challenges for humanitarian operations and engagement by the international community.

NSAGs are often fragmented – for example, it is estimated that between 1,000 and 6,000 NSAGs are operating in Syria. While some, particularly the larger groups, are highly sophisticated, others have little command and control structure or unity of purpose.

NSAGs are a diverse set of actors, many of which are participating in protracted, violent armed conflict. The conflicts are equally disparate, varying from intractable civil wars to low-level insurgencies. NSAGs play a variety of roles in conflict, moving across national boundaries, forming coalitions across wide swathes of territory, and employing social media and the internet for propaganda, recruitment, information, training and arms purchases. During conflict NSAGs control territories – including towns and cities – and thus can determine the access of humanitarian organizations to the people who live there and are caught up in the conflict. NSAGs can carry out quasi-state functions. The inhabitants of the regions they control, many of whom may be reluctant or trapped bystanders, will include children, the elderly, the sick and people with disabilities. When NSAGs control large areas of populated territory, humanitarian organizations find themselves having to negotiate with the NSAGs in order to gain access to communities within those regions so as to be able to deliver humanitarian aid effectively and safely.

The objective of principled humanitarian aid is to deliver essential assistance to whomever is in need, and thus make no distinction between those populations living in government-controlled areas and those in NSAG-controlled areas.

NSAGs have widely differing attitudes to the permission of humanitarian access, whether to people in need or to humanitarian organizations. Some NSAGs – viewing themselves as providing alternative forms of governance or even as ‘governments-in-waiting’ – aspire to comply with international humanitarian law (IHL), and aim to assist humanitarian organizations in their work. Other NSAGs perceive humanitarian organizations to be part of the conflict, perhaps even part of a military strategy against them, and deliberately target humanitarian workers and buildings. In many conflicts these attitudes change over time, often oscillating

between cooperation and castigation, depending on the individuals in charge of the NSAGs, how the conflict is progressing, and the connections and behaviour of the humanitarian organizations.

This situation poses enormous problems for humanitarian entities – be they part of the UN or from the International Red Cross and Red Crescent (RCRC) Movement,<sup>1</sup> or international or local non-governmental organizations (NGOs) – as well as for the governments, foundations and individuals that fund them, and for the governments of the countries where the NSAGs operate. Governments embroiled in the conflict may have conflicting aims. In some situations, just the act of allowing discussions with an NSAG over aid delivery could be seen as constituting a form of recognition by the government of the NSAG’s existence – and be construed as granting political legitimacy to the NSAG – in contradiction to the government’s policy. In such situations, states may believe that any dialogue – including dialogue solely for humanitarian purposes – may unintentionally empower NSAGs. In other cases, a government may actively support aid delivery as part of a political and military strategy to win over the ‘hearts and minds’ of those under the control of NSAGs.

Humanitarian organizations find it difficult to operate effectively without clear lines and limits where engagement with NSAGs may conflict with the laws of a state or with counterterrorism legislation in other states. For many people within territories occupied by NSAGs, one of the most difficult problems is the acquisition of documentation such as birth, marriage and death certificates. When NSAGs issue such documents, they are usually not recognized as valid by governments, although they are increasingly accepted by humanitarian organizations for the purposes of identification and service delivery.

### **States need to develop a coherent, principled approach to engagement by humanitarian organizations with NSAGs for humanitarian purposes.**

For populations living in conflict zones, whether the territory is controlled by a state or by an NSAG may seem immaterial. Yet this may determine their access to humanitarian assistance. The international community needs to establish the basis on which states can tolerate engagement by humanitarian actors with NSAGs deemed hostile, and to help states determine their ‘red lines’ in ways that are transparent and consistent for humanitarian organizations, so as to increase trust, safety, access

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<sup>1</sup> The International Red Cross and Red Crescent (RCRC) Movement has three main components: the International Committee of the Red Cross (ICRC); the International Federation of Red Cross and Red Crescent Societies (IFRC); and 190-member Red Cross and Red Crescent Societies. See <http://www.ifrc.org/en/who-we-are/the-movement/>.

and operational space, and remain consistent with states' obligations under IHL not to withhold consent to humanitarian assistance arbitrarily.

States need to develop a coherent, principled approach to engagement by humanitarian organizations with NSAGs for humanitarian purposes. A fundamental component should be a means to hear and respond to the voices of people caught up in the conflicts between states and NSAGs, in order to foster clarity in understanding their needs.

A principled approach would benefit from a detailed analysis of specific situations and of the participants' motivations in cases where states have allowed engagement with NSAGs by humanitarian actors. This could be compared with the situations and the participants' motivations in cases where states have not allowed such engagement. Such analysis would be aimed at understanding the range of motives of states and of NSAGs, the importance of the concerns and priorities of affected populations, and the degree to which the actions, behaviour and perceptions of humanitarian actors themselves are decisive factors.

## The Chatham House project

Chatham House has undertaken a study of the factors that determine whether and how engagement with NSAGs for humanitarian purposes can be made more effective, safe and sustainable. The initiative is intended to provide input to the forthcoming World Humanitarian Summit (WHS),<sup>2</sup> and to generate both political support and practical policy options in order to increase the effectiveness of humanitarian action in conflict through improving engagement and interaction with NSAGs.

The study explores the scope for agreeing a set of principles that can guide states' engagement for humanitarian purposes with NSAGs, drawing on and working in partnership with organizations that have extensive experience in this field.

Through its activities, the initiative is creating a network of individuals with diverse perspectives, including from conflict-affected states. This network will function as a platform for ongoing dialogue – beyond the WHS – on developing a principled, realistic approach to engagement with NSAGs for humanitarian purposes.

The perspectives of four key groups of actors have been considered in the course of the study, with direct engagement where possible:

- i. States, including: those party to conflict; states providing financial, military or other support to actors in conflict; and donor states;
- ii. Humanitarian actors: in the UN system; the RCRC Movement; and international and local NGOs;
- iii. NSAGs;
- iv. Populations caught up in conflict.

Their perspectives have been considered in two ways: first in the research for and preparation of four short research papers; and second at a series of meetings before and beyond the WHS.

## Overview of research findings

The four commissioned research papers address a broad set of issues:

- i. The current experience and constraints in engaging NSAGs for humanitarian purposes;
- ii. Consolidating governmental and non-governmental approaches in engaging armed actors;
- iii. Improving respect for IHL by NSAGs; and
- iv. Eliciting the voices of civilians in armed conflict.

The primary findings from the research phase of the project demonstrated the importance of humanitarian organizations engaging with NSAGs for the purposes of humanitarian assistance and essential aid delivery. The parties to a conflict – both state and non-state – bear the responsibility to protect and ensure the basic needs of civilian populations. The delivery of humanitarian assistance requires that NSAGs that control territory – and therefore access to people in need – give their consent to humanitarian organizations' aid delivery, through a process of negotiation. However, the increased use of humanitarian assistance as part of military strategies has served to undermine the perception of impartiality in humanitarian assistance and humanitarian organizations. Increased focus on NSAGs classified as 'terrorist' organizations further complicates the perception of humanitarian organizations. Changes in conflict, nature of armed groups and expansion of humanitarian actors all add complexity to the challenge of engaging with NSAGs.

Approaches employed by states and international organizations have been limited in dealing with NSAGs, and experience of engaging with NSAGs in relation to reducing violence in an armed conflict may provide some

<sup>2</sup> An initiative of the UN Secretary-General, the first World Humanitarian Summit is scheduled to be held in Istanbul in May 2016. The summit is intended to bring together governments, humanitarian organizations and people affected by humanitarian crises, as well as new partners including the private sector, to propose solutions to the most pressing challenges in meeting the needs of people affected by conflicts and disasters. See <https://www.worldhumanitarianissummit.org/>.

lessons for engaging with such groups in the delivery of humanitarian assistance. (It should be recognized, though, that the specific dynamics of violence reduction activities and the tools available to specialized organizations focused on such efforts impact on the manner in which they can engage with NSAGs.) Specialized humanitarian organizations have sought ways in which they can leverage their specific capabilities to fill some of the gaps. For example, to reduce the humanitarian consequences of conflict for civilian populations, humanitarian organizations and private actors have employed one of two general approaches: some promote international norms about the protection of civilians and combatants with the goal of persuading armed actors to change their behaviour; others seek the resolution of the conflict through dialogue, mediation, mediation support and negotiation.

In practice, states, international organizations, and humanitarian NGOs and private actors use different approaches in the same locations at the same time. To avoid duplication of effort, instrumentalization, and unintended consequences, all those involved need to improve communication, coordination, collaboration and cooperation. However, incentives are often not in place to encourage this; complications include concerns about security, confidentiality, competition for funding and access. Moreover, a consolidation of state, international organizations, NGOs and private actors' approaches, and an appropriate mix and timing of strategies, may provide a more effective means of consistently engaging armed actors and decreasing violence in contemporary conflict. Or more generally, reducing the humanitarian consequences of conflict, for example by preventing attacks on health facilities and complete deterioration in medical services.

**While there is an emerging norm of humanitarian organizations engaging crisis-affected people in the context of natural disasters or broader development activities, listening to civilians in the armed conflict context is far less common.**

Specialized humanitarian organizations may be in a position to assume responsibility for complete and distinct policy components where state actors and international organizations face obstacles. Such organizations may be able to anticipate windows of opportunity for specific engagement in conflict, which could have the potential to decrease levels of violence, especially against civilian populations in certain situations. The practical experiences and first action on the ground of such organizations may develop such opportunities for official initiatives.

While NSAGs must respect basic IHL norms, the mechanisms for holding them accountable for violations of IHL are less developed than those for states. Various legal and practical tools can enable NSAGs to respect IHL, including special agreements, unilateral commitments, internal regulations, dissemination and training, and disciplinary systems. In this regard, IHL-compliant codes of conduct are a particularly important means of promoting respect for IHL in NSAGs, especially if supported by leaders and backed by dissemination, training and sanctions.

Overall, the international community's engagement with NSAGs has been limited, and often focused more on dialogue about humanitarian access and relief than on protection. In addition to practical difficulties, engagement with NSAGs can be impeded by counterterrorism policies, co-option of humanitarianism in pursuit of military goals, and competing priorities in UN missions. Actors that provide relief and assistance can exercise that leverage to engage NSAGs directly on wider issues of humanitarian protection. Actors focused more on monitoring of violations seek instead to influence NSAGs variously through moral persuasion, public shaming and 'influencing influencers'. The international community could engage NSAGs more on IHL compliance. Engaging NSAGs does not alter their legal status. While it may enhance an NSAG's perceived political legitimacy, that risk is often outweighed by the high humanitarian price of failing to engage. Refusing to engage with NSAGs does not necessarily improve their behaviour. While a few groups may be beyond the pale, many others are capable of engagement in some way. NSAGs need to be continually monitored to identify opportune timing for fruitful engagement.

There is a general consensus among humanitarian organizations that there is a responsibility to engage recipients of humanitarian aid, and that doing so will increase the effectiveness of humanitarian efforts. The voices of civilians in situations of armed conflict should be central to political processes, developmental plans and humanitarian action. While there is an emerging norm of humanitarian organizations engaging crisis-affected people in the context of natural disasters or broader development activities, listening to civilians in the armed conflict context is far less common. States and NSAGs tend to show little interest in the views of civilians, let alone their humanitarian needs – notable exceptions notwithstanding. NSAGs are more likely to do so where they share political aims, religious or kinship ties with affected communities. Humanitarian actors striving systematically to listen to civilians in situations of armed conflict face a plethora of serious challenges, including operational and conceptual difficulties. Common barriers include logistical difficulties and safety concerns; and the verification, prioritization and transmission of information; as well as the risk of

political instrumentalization. The increasing availability of – and enormous advances in – mobile communications technology has created unprecedented opportunities to elicit the voices of civilians in armed conflict. While the application of ‘digital humanitarianism’ to conflict settings carries risks of its own, technology is already facilitating humanitarian efforts, and is likely to become more important as it advances. While efforts to systematize a process of ‘listening’ to civilians in armed conflict are at a very early stage, there exists both the need and potential for humanitarian actors to increase their efforts in this respect.

## Propositions

As a contribution to the WHS, and with a view to contributing to broader discussions it has generated around principled humanitarian action in conflict situations, Chatham House has developed the following propositions:

1. The humanitarian needs of people living in areas controlled by NSAGs are a growing problem. Under IHL, states and other parties to conflict have the responsibility to ensure that the basic needs of people affected by conflict are met. When states and other parties to a conflict do not fulfil their responsibility, it is for the international community to respond to humanitarian needs on a principled basis, including by facilitating the work of humanitarian organizations.
2. Meeting the humanitarian needs of people affected by conflict requires humanitarian organizations to engage with those who control access to local communities, including NSAGs. The attitude and actions of states have a direct bearing on the nature and effectiveness of humanitarian engagement with NSAGs. States have an obligation under IHL to allow and facilitate access to humanitarian relief. Many states have fulfilled this obligation by providing, or at least not withholding, consent for humanitarian organizations to engage with NSAGs for operational purposes. However, there are many grey areas and blurred lines. States, both those providing financial support to humanitarian organizations and those party to conflict, need to provide greater guidance if not clarity as to the terms whereby they will accommodate engagement by humanitarian organizations with NSAGs.
3. Humanitarian actors, whether from the UN, RCRC Movement, or international or local NGOs, have extensive experience around the world of engaging with NSAGs for humanitarian purposes, whether to gain access, negotiate ceasefires or achieve specific or time-sensitive life-saving objectives. However, knowledge and understanding among local actors in conflict situations of the varying mandates and motivations of humanitarian organizations can be limited. The communication and negotiation skills of humanitarian workers is increasingly important. Humanitarian actors need not only to reaffirm and better communicate their principles, but more crucially, to apply them consistently on the ground, including in their engagement with NSAGs.
4. NSAGs also have obligations under IHL, and opportunities to facilitate humanitarian action. The challenges are acute in situations where there may be dozens if not hundreds of NSAGs, many of them with shifting allegiances, others being instrumentalized by states, some listed or affiliated with entities listed under counterterrorism legislation. Yet there are many precedents and examples of positive humanitarian engagement, including NSAGs issuing declaratory statements or codes of conduct, or signing agreements, that can have a direct bearing on the ability of humanitarian organizations to meet needs. More concerted effort is required to understand the NSAG landscape and to strengthen NSAGs’ awareness of and respect for standards set out in IHL.
5. The full range of views, expressed needs and priorities of the civilian population are essential to effective humanitarian action. Greater investment is required to engage with diverse communities – to listen to and understand their views – not only as a matter of good practice by humanitarian actors, but also to communicate their voices and choices, notably to states and NSAGs, with a view to underscoring the humanitarian requirements and priorities of people affected by conflict.
6. The challenge of meeting the needs of people affected by conflict in areas controlled by NSAGs is complex and evolving, and generates many dilemmas – not least as counterterrorism measures and legislation may be difficult to reconcile with meeting humanitarian needs and IHL. Sustained dialogue is required between states as to the terms on which they are willing to provide consent for humanitarian operations including in areas and for populations under the control of NSAGs. Humanitarian organizations, and in some instances representatives of NSAGs, can inform and enrich this dialogue. Required is an ongoing, facilitated process to build trust and confidence among states, and between them and humanitarian actors, with a view to strengthening principled engagement with NSAGs by humanitarian organizations.

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## Conclusions

The UN regularly draws attention to the needs of people affected by conflict, whether between or within states. The importance of all parties cooperating with humanitarian personnel in order to allow access is repeatedly underscored.

States party to conflict are reminded of their responsibility for ensuring the life-saving and protection needs of civilians, including by respecting and promoting respect for IHL, and by facilitating the work of humanitarian organizations. NSAGs are also reminded that they have obligations under IHL.

Yet in far too many instances not only are the needs and rights of civilians not being met, but efforts to serve them are actively blocked or undermined by parties to the conflict, both states and NSAGs. The consequences of this are literally incalculable.

The number of individuals now living in war zones, most of them women and children, is growing. They face violent death, arbitrary detention, disease, destruction of their homes and livelihoods, and physical and psychological impairment.

A much larger number of people, also growing, are indirectly impacted: families and friends of people in conflict zones, including detainees and the disappeared; internally displaced persons and refugees; and future as well as current generations.

The conflict in Syria is the highest profile and most continuous example of violations. It is characterized among other things by indiscriminate as well as deliberate attacks on civilians and on civilian facilities such as schools, health centres, markets, public buildings and essential services; by sieges; by denial of access to civilians and to humanitarian organizations; by kidnapping and disappearances; and by torture and unlawful treatment of detainees.

The conflict is witnessing not only violations of IHL by the parties, notably the Syrian government and so-called Islamic State of Iraq and Syria (ISIS), but also failure of states that are supporting the parties politically, militarily and financially to respect and promote respect for IHL.

The Syrian conflict is not, however, unique. Precedents and parallels range from Cambodia to the Democratic Republic of the Congo, the former Yugoslavia to Sudan, Sri Lanka to Ukraine. Given repeated and systematic violation of IHL in Syria and elsewhere, it is highly significant and perhaps surprising that there have been and continue to be many examples of states and NSAGs that do provide consent, formally or de facto – or that at least do not withhold consent – for humanitarian activities, including in areas

they do not control, even when this may involve direct or indirect engagement by humanitarian actors with their enemies – including groups deemed by them, or under international listing regimes, to be ‘terrorist’.

There are many examples of states not blocking, even supporting, the ‘cross-line’ work of international humanitarian organizations, whether in the UN, the RCRC Movement, or the NGO community, both international and local. In some cases this is the result of formal agreements, for example between the UN and a government.

Efforts to increase the level of compliance by NSAGs with international standards – notably by the NGO Geneva Call – are yielding significant results, including in areas such as child protection and action on landmines.

These positive instances only serve to highlight the more widespread failure to tolerate let alone support humanitarian engagement, and in some cases the propensity actively to undermine or attack humanitarian work and organizations.

### **A key question is what determines why some states and NSAGs are willing, or have at times been willing, to countenance humanitarian action on behalf of a population they do not control.**

A key question therefore is what determines why some states and NSAGs are willing, or have at times been willing, to countenance humanitarian action on behalf of a population they do not control. The answer to this could illuminate a set of pathways towards achieving more consistent respect by more states to meeting their obligations under IHL.

Decisions and behaviours by states and NSAGs to accord or deny consent to humanitarian operations need to be challenged by moral or ethical considerations and through a commitment to international law. Whether it is in the interest of a state or NSAG, for reputational or pragmatic reasons, to associate itself with efforts to meet humanitarian needs is a political calculation – albeit enlightened or cynical. It ought to be important to states and NSAGs to attract or retain the support of members of the international community and the population in areas they control or aspire to control. Indeed, the voices of people caught in conflict need to be heard, and this could influence parties to allow humanitarian interventions.

A growing body of research suggests that in many conflicts economic factors – in particular the logic of the war economy – transcend ideological differences, and that aid serves as an important source of revenue or patronage.

There may be scope to use humanitarian aid as leverage to gain access to all people in need, although the ethics of such an approach need to be thoroughly examined.

The behaviour, provenance and local partnerships of humanitarian organizations themselves are significant factors in determining whether states and NSAGs will facilitate their or others' humanitarian activities. The significance of counterterrorism legislation in shaping humanitarian organizations' behaviour with NSAGs should not be overlooked, nor should their sources of funding and local reputation.

The purpose of the discussion, and of this initiative more broadly, drawing on the papers prepared and an extensive set of consultations, is to advance efforts to strengthen principled approaches to humanitarian action involving engagement with NSAGs. Understanding how and why some states allow or even facilitate engagement by humanitarian actors with NSAGs, while others do not, could lead to a useful framework of principles to guide states in providing consent for engagement by humanitarian actors with NSAGs.

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Cover image: A rebel fighter searches Syrian Arab Red Crescent members before they are sent to deliver food aid to Aleppo Central Prison, 11 May 2014.

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