The Influence of Third Parties on Humanitarian Negotiations with Non-State Armed Groups: About Terrorist Designations, Supporting Actors, and Intermediaries

(Risk Boardgame, Pawns on world map)

Humanitarian Negotiations with Non-State Armed Groups (NSAGs) do not occur in isolation. They are heavily influenced by third parties who either try to contain the power of NSAGs by designating them as terrorist organisations or try to strengthen their influence by supporting them with intelligence, money, weapons, training, etc. Furthermore, different global and local intermediaries influence negotiations with NSAGs. All such third parties have an impact on humanitarian negotiations with NSAGs, raising this question: under which circumstances do we involve third parties in our negotiations, and how does this involvement influence the relationship

with the NSAG on the ground? In this sub-group, we reflected about these very questions by having a close look at humanitarian negotiations in northwest Syria.

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The views expressed by the contributors to this sub-group and working paper are those of the individuals and do not necessarily reflect the official opinion of CCHN, nor its Strategic Partners or member organisations.

Abbreviations

AFAD: Turkish Agency for Emergency Management
DTG: Designated Terrorist Group
FTO: Foreign Terrorist Organization
IDL: Idlib
NSAG: Non-State Armed Group
NWS: Northwest Syria
NALO: Northern Aleppo
SSG: Syrian Salvation Government

Introduction

Much has been written on humanitarian engagement with NSAGs; less has been written on the influence of third parties on such engagement, even though third parties strongly influence humanitarian negotiations with NSAGs.

One of the more discussed topics in this regard is humanitarian engagement with designated

terrorist groups and how such designations, and as a consequence, donor requirements and legal considerations, complicate matters for humanitarian actors on the ground and put pressure on humanitarian principles. A thorough desk research has found extensive literature on the impact of counterterrorism measures and sanctions regimes on humanitarian action and on the advantages of humanitarian exemptions, but very little has been found on actual engagement and negotiation with Designated Terrorist Groups (DTGs) and how DTGs adapt to facilitate humanitarian engagement with them despite the designation. Also, little is known about the engagement of humanitarian actors with third parties who impose terrorist designations. However, the recent case of the revoking of the terrorist designation of Ansar Allah in Yemen by the US government on 16 February has shown that humanitarian actors do, at times, engage with such actors.

A lesser discussed topic is humanitarian engagement with actors who support NSAGs with intelligence, money, weapons, training, etc,. and how they are involved when negotiations with NSAGs in the field reach a stalemate. The literature shows that the relationship between supporting actors and NSAGs ranges from the supporting actor having no influence over the behaviour of NSAGs at all to the supporting actor being in full control over the actions on the ground – and all the variants in-between the two extremes (Popovic, 2017; Tamm, 2020). A key question in this regard is, can humanitarian actors leverage supporting actors to facilitate negotiations on the ground, and what is the impact of such a course of action on the relationship with the NSAG on the ground?

Finally, little is known about the wide range of intermediaries that are involved in humanitarian negotiations with NSAGs.

In this sub-group, we reflected about the influence of third parties by analysing humanitarian negotiations with NSAGs and

engagement with third parties in northwest Syria. The case study presented is based on 18 semi-structured interviews with humanitarian practitioners operating in northwest Syria and discussions among the members of the Think Tank. It lays the groundwork for further comparative studies and reflections on the topic.

Current debate on humanitarian engagement with designated terrorist groups

The literature gap of actual engagement and negotiation with Designated Terrorist Groups (DTGs) has been partly filled with a case study on northwest Syria, carried out as part of a larger PhD research at the European University Institute in Florence, and with the results of a Listening Tour for Yemen.

Designation of terrorist groups

One of the main issues that humanitarian actors face is the existence of a highly complex and diverse web of applicable counterterrorism regimes. Each country has its own list of DTGs, as there is no internationally recognized definition of terrorism (Debarre, 2019b). Moreover, some groups may be labelled as terrorists by certain governments, despite not being formally listed, in an attempt to undermine their legitimacy (Clements, 2020). The United Nations and the European Union also have their own lists, while other regional organisations such as the African Union, OSCE, and ASEAN have developed their own regulations. There are currently no clear pathways or incentives, for DTGs to follow if they want to be delisted[3] (Crisis Group, 2021).

Due to the enormous impact that US designations have on humanitarian action because of extended USAID funding and extraterritorial application of the US framework, in this overview we mainly focus on the US regime, which includes two separate legal designations: the Foreign Terrorist Organization

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(FTO) and the Specially Designated Global Terrorist entity (SDGT).[4] The former is a counterterrorism measure that triggers the "material support" statute, which has been interpreted very broadly – so as to cover not only the provision of tangible items, but also services, training on IHL and expert advice – and only allows exceptions for religious and medical support (18 US Code § 2339B). The SDGT designation is part of a sanctions regime that blocks the assets of those who commit or pose a significant risk of committing acts of terrorism and of those that have assisted, sponsored, or transacted with the designated entity. This designation applies to both organisations and individuals, and the impacts on humanitarian assistance are somewhat mitigated through general licenses and FAQs issued by the Treasury/Office of Foreign Assets Control (Kurtzer, 2019).

Major cases against humanitarian organisations

The landmark case that broadened the scope the FTO "material support" clause was that of Holder v. Humanitarian Law Project in 2010, an advisory ruling where the Supreme Court interpreted that providing human rights and conflict resolution training and expert advice to DTGs falls under the prohibition of material support (Charity and Security Network, 2020).

In the past few years, several organisations operating in the Occupied Palestinian Territories (Norwegian People's Aid, the Carter Center, and Oxfam GB, with six other cases still under seal) have been sued under a different framework, the False Claims Act, with the premise that they have supported Hamas despite issuing the necessary anti-terrorism certification to USAID. The Oxfam case tried to stretch the material support clause to include the Palestinian Authority, despite it not being listed, therefore being dismissed. However, while the case against the Carter Center was also dismissed (the claim being that, by giving food and water in meetings with Hamas and the Popular Front

for the Liberation of Palestine, the organization had provided material support), Norwegian People's Aid had to reach a settlement with the US authorities. The Court interpreted that USAID anti-terrorism certifications apply to all of NPA's projects, even those funded by other donors (Charity and Security Network, 2018). Cases against the New Israel Fund and Doctors Without Borders, according to which the organisations falsely claimed tax-exempt status, have been unsuccessful (Charity and Security Network, 2021).

However, even when legal action against aid agencies has been dismissed, the reputational repercussions of these accusations remain, affecting, among others, the organization's possibilities of getting funding and accessing banking services. This has been the case of Interpal, which is still designated as a SDTG by the US but was cleared of any allegations of supporting terrorism by the UK's Charity Commission (Osborne, 2020).

Impact of a terrorist designation

The impacts of a terrorist designation on humanitarian action are numerous, starting with the risk of civil and criminal prosecution, which seems to be the biggest setback for agencies, particularly as there is still no clarity around what actions could and could not entail criminal liability. There are multiple laws that apply (i.e., that of the donor country, of the organization's country, and of the country of implementation), adding to the general level of uncertainty, which has a chilling effect on aid organisations (NRC, 2018).

Existing literature additionally identifies three kinds of impacts of counterterrorism measures: structural, affecting the organization's ability to adhere to humanitarian principles and the standard operating procedures; operational, affecting programmatic decisions; and internal, affecting the functioning of and coordination between humanitarian actors (Mackintosh & Duplat, 2013). Structural impacts involve

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[4] For further information, visit the legal briefing prepared by Morrison Foerster in 2017, available at https://www.interaction.org/wp-content/uploads/2019/03/Together-project-prohibition-against....pdf

organisations avoiding DGT-controlled areas, thus leaving people in those areas without assistance and being perceived as partial, which heightens the security risks for staff. Likewise, the operational impacts may lead an organization to avoid funding by certain donors or self-censor when deciding which projects to implement. In the end, donors transfer all the risks through flow-down clauses to implementing organisations and local staff. Internal impacts can be seen in increased administrative burdens and costs of compliance with laws, policies, and donor requirements. Around 71% of those humanitarian actors who affirmed that counterterrorism affects their work have identified the administrative burden as the one having the biggest impact (NRC, 2018). Finally, counterterrorism measures have extremely negative consequences on aid agencies' access to financial services. Humanitarian organisations are seen as high risk and low profit, which leads banks to apply de-risking policies, adopting a defensive approach to risk. They sometimes go far beyond the Financial Action Task Force recommendations, asking aid agencies to bear the cost of investigations and to provide information that would put beneficiaries at risk. These policies result in delays in payments, funds being cut, and accounts being closed. Humanitarian organisations resort to cash carrying and informal transfer methods, thus increasing their personal risks and the risk of funds being diverted (El Taraboulsi-McCarthy & Cimatti, 2018).

Engagement with Designated Terrorist Groups

Negotiating with DTGs is not only permitted but also inevitable, particularly when they control large parts of territory. However, humanitarian organisations self-censor and avoid acknowledging that engagement, out of fear of legal prosecution and reputational damage (Kurtzer, 2019). When negotiating access to the territory with DTGs, there are several factors that may provide certain leverage to the organization: providing a product/service that is

valued by the community, being present in the area prior to the encroachment of the DTG, having capable national staff, and establishing continued relationships at all levels of the DTG structure[5] (Belliveau, 2015). Likewise, in places like Yemen and northwest Syria, where Ansar Allah and Hayat Tahrir Al Sham (HTS) act like the legitimate governing authority and look for increased legitimacy, this can give humanitarian organisations some negotiating leverage.

One of the most important aspects when negotiating with terrorist groups is having established clear red lines. Some red lines that have been identified revolve around paying taxes and direct transfers of money, placing the staff in danger, providing beneficiary lists, and affecting the quality of the services provided (Belliveau, 2015). Unfortunately, there is a lack of coordination among humanitarian organisations along these lines, which means that DTGs play one against each other, asking concessions out of certain organisations and then using them as proof against the rest (Clements, 2019). This lack of coordination is partly due to competition over funding, but also for fear of potential repercussions of recognizing that they negotiate with terrorist groups (NRC, 2018). However, some examples of best practices can be found in Syria, where various organisations signed a protocol on their engagement with parties to the conflict in 2014; and Yemen, where a coalition of 21 aid agencies made an unprecedented, united call for the Biden Administration to revoke the Ansar Allah designation and succeeded.

Outlook

Non-engagement with DTGs does increase operational and security risks for organisations and their staff. When organisations avoid areas controlled by the DTG, they are not perceived as neutral by NSAGs and are resented by communities where they are not delivering assistance. This makes delivery of principled humanitarian assistance impossible and

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[5] These lessons learnt come from a MSF report on engagement with Al-Shabaab and may therefore not always be relevant to negotiations in the

Middle East, where the main issue is not that DTGs deny access, but rather the actual engagement with them.

increases the likelihood of attacks on organisations and their staff (Belliveau, 2015).

There seems to be an understanding that engaging with DTGs that function as *de facto* authorities is inevitable and that humanitarian organisations actually do, but this is not acknowledged even within the same organization. Donors prefer not to ask, and organisations prefer not to request guidance, out of fear of getting a very conservative response. The case of Hamas is the best example that institution building does not allow DTGs to bypass the designation (Mackintosh and Duplat, 2013). There is a sense that HTS is becoming more pragmatic and willing to engage with third states, but it remains to be seen what happens next (Drevon et al., 2021).

In order to better balance the legitimate security interests of states in their fight against terrorism and their obligations under international law to allow unimpeded access and delivery of principled humanitarian action, all relevant stakeholders must do their part. Intergovernmental organisations and states must do their best to harmonise the applicable legal framework and include standardised, general exemptions for humanitarian action (Debarre, 2019a). Recent UNSC Resolution 2482 (2019), requiring states to take into account the negative impacts of counterterrorism regimes on humanitarian activities, and Directive 2017/541 of the European Parliament and the Council of 15 March 2017, providing for such an exemption and harmonization, are good steps in the right direction but are not enough. Likewise, donors need to better support and release the increasing pressure on aid organisations; they should be able to openly discuss the concerns and challenges they face without fears of incurring legal repercussions or losing funding. Finally, strengthened dialogue and cooperation need to take place among humanitarian actors: to this day, the only exemption for humanitarian action contemplated in a UNSC sanctions regime was achieved through the joint efforts and pushback of aid agencies in the context of the Somali famine in 2011 (NRC, 2018).

Current debate on the involvement of third parties in non-international armed conflicts

The internationalization of civil war is a widespread (if not even universal) phenomenon in civil wars generally. Internationalization should not be understood too narrowly, not only as direct external military action. International proxy warfare, i.e., "the indirect engagement in a conflict by third parties wishing to influence its strategic outcome" (Mumford, 2013: 1), is just as important. External involvement can be in support of NSAGs, both insurgents and pro-incumbent militias, even in support of state actors themselves (Ahram et al., 2011). Almost half of all armed insurgent groups active between 1945 and 2011 have received external support (Cunningham, 2013) and around 75% of insurgent groups that succeeded in controlling territory between 1980 and 2003 had external sponsorship in the form of money or military hardware (Lidow, 2016). Lidow explains the reason well:

> Large-scale military offensives require complicated logistics and regular shipments of ammunition. To acquire these supplies, rebel groups either need access to cash and arms dealers, or the support of a foreign government. Without external support, few rebel groups emerge from obscurity (2016, 10).

Much of the recent literature dealing with proxy warfare and the partnerships between external supporters and local NSAG partners focuses on the strategic aspects of these relationships, as well as external and internal partners' motivation for entering these partnerships (Rauta, 2021). Beyond the ethics of supporting NSAG "rebel" partners, which can be approached from a "just war" perspective (Pattison, 2015), the governance of such partnerships is frequently quite complicated, something to which the academic literature has increasingly paid attention.

Commonly, the issues that such relationships between an external supporter and local NSAG allies can throw up are framed as a Principal-Agent problem. The agents (in this scenario usually the NSAG) have their own agency and objectives, which may only partially overlap with those of the principal (usually the external supporter). For a principal attempting to implement their strategic agenda through an agent, divergent motives between both actors pose the risk of agents "shirking", i.e., pursuing their own agenda at the expense of the principal's. In the original economic principal-agent models, an agent's ability to diverge from the principal's agenda is often linked to information asymmetries between both actors. The agent, as the actor closer to implementation, is frequently in possession of better information (Jensen et al., 1976). The agent can make use of such information asymmetries to pursue its own objectives. Principal-agent models often present mechanisms for principals to exercise greater control over their agents as a solution to the principal-agent problem (from the principal's perspective).

Where principal-agent models focus on information asymmetries between principal and agent, others (Abbott et al., 2020) have recently broadened the perspective to include indirect governance more generally, while shifting the emphasis from information asymmetries to questions of power between governors (the equivalent to the principal) and the intermediaries (the equivalent to agents) they enlist to govern indirectly. According to this perspective, intermediaries usually offer governors certain competences they do not themselves possess, whether legitimacy, credibility, operational capacity, or expertise. Governors then face the "governor's dilemma" of whether to maximise their intermediaries' competence, at the expense of potentially losing control over them, or whether to maximise control over their intermediaries, at the expense of the competences for which they have sought

them out. While principal-agent models usually rely on the idea of delegation from principal to agent, different modes of managing the relationship between governors and intermediaries are possible, from the delegation of authority from governor to intermediaries, the enlisting by the governor of intermediaries endowed with their own authority, and the exercise of hierarchical or non-hierarchical post-facto control. As opposed to principal-agent theory, which is based on information asymmetries, competence-control theory emphasises power asymmetries (Abbott et al., 2020). In many cases, governors risk not achieving their governance goals if they do not use intermediaries. Thus, in many cases, the relationship between governor and intermediary is not as clearly hierarchical as one might think at first. Where there are multiple governors or multiple intermediaries, this usually increases the power of the side that has the greater choice[6] (Abbott et al., 2020).

While the micro-foundations of principal-agent models and competence-control theory may diverge, the implications of both for the relationships between external supporters and their NSAG partners are relatively similar. Where the agenda of both actors does not completely overlap, we can expect NSAGs to pursue at least some objectives that differ from those of their external supporters and supporters to face limitations to their ability to prevent them from doing so. Thus, there is frequently a certain levelling of the supposedly hierarchical relationship between both, so these are often not simple proxy relationships. The empirical literature mostly supports these theoretical expectations, including when it comes to issues relevant to humanitarians. Generally, access to external supporters' resources can make NSAGs less responsive to local civilian populations' needs and more violent towards these civilian populations (Salehyan et al., 2014), although supporters may be able to offset this effect, showing that they can have some influence on NSAGs' violence

[6] This definition only captures international forms of proxy warfare. As the burgeoning literature on state-militia relations shows, domestic forms of proxy warfare are just as possible.

towards civilians (Salehyan et al., 2014). Various case studies show how supposed proxies often have additional constituencies other than their patron (Barter, 2013; Thurber, 2014) and how they can subvert a supporter's agenda for their own agenda or even invert the relationship (Bale, 2012; Marshall et al., 2016). More decentralized and fragmented NSAGs are also particularly likely to defect from their supporters as their decentralized nature creates additional principal agent problems within the NSAG (Popovic, 2017). Principal-agent considerations may also motivate external supporters to create additional control mechanisms; one example is through umbrella institutions that allow the aggregate monitoring of different NSAG clients (Popovic, 2018). Where objectives diverge between external supporters and their NSAG partners, external supporters sometimes resort to undermining a NSAG's leadership, by supporting internal rivals or encouraging the fragmentation of NSAGs, for example (Tamm 2019). While this shows some of the mechanisms through which external supporters may be able to influence NSAG behaviour, it is also a testimony to their inability to simply order these NSAGs' leaderships to comply with their expectations. Divergent goals between NSAGs and external state sponsors can even lead to increased use of violence against civilian populations, in some cases because external supporters withhold funds, leading weakly disciplined insurgent groups to "live off the land" and engage in more abusive practices towards civilian populations (Lidow 2016).

The principal-agent and competence-control dilemmas that external actors face in their partnerships with NSAGs have implications for humanitarians attempting to reach out to these NSAGs via third parties. While bringing these parties into humanitarian access negotiations may offer humanitarians additional leverage vis-a-vis NSAGs, this effect should not be overestimated. Where external sponsors face limitations to their ability to control their NSAG partners, this will likely also be reflected in their ability and willingness to support humanitarians' negotiation objectives. Thus, negotiating through such external partners may well be worthwhile, but humanitarians should not overestimate the leverage this may offer them.

Humanitarian negotiations with NSAGs in northwest Syria

We are presenting the outcome of the research on humanitarian negotiations with NSAGs in northwest Syria in an interview with the lead researcher Johannes Rothe carried out by Fiorella Erni, CCHN Negotiation Support Specialist Middle East during the CCHN World Summit taking place from 28 June – 3 July 2021.

Johannes is a PhD researcher in Social and Political Sciences at the European University Institute, working on governance and service provision in non-state controlled parts of Syria during the ongoing conflict. He previously worked as a delegate for the ICRC between 2013 and 2017, with missions in Gaza, South Sudan and Syria (twice).

Before we discuss how third parties influence the negotiations in northwest Syria, could you tell us bit more about context of the area, the evolution of control of different NSAGs, and humanitarian action?

Different parts of northwest Syria (NWS) have undergone a different evolution over the course of the conflict. Very roughly speaking, one can distinguish between Idlib governorate and (formerly) some surrounding areas (east Latakia, northern Hama, western Aleppo governorates) on the one hand and a string of areas in northern Aleppo on the other hand. Idlib was initially controlled by a patchwork of different armed groups, and governance was in the hand of various mostly local bodies. However, control has become more consolidated over time. Since around 2017, Hayat Tahrir al-Sham (HTS) has become the dominant armed group in the area, defeating various competing armed groups. HTS has supported the creation of a government

structure in the area, the so-called Syrian Salvation Government (SSG). The SSG has gradually integrated most alternative governance bodies and have created an administrative structure that controls much of governance in Idlib. HTS is the successor group to the former Syrian al-Qaida branch. While they have split from al-Qaida in the meantime and are now primarily pursuing Syria-centred goals, the group is on international DTG lists, which creates challenges when interacting with it.

The situation in northern Aleppo is different. The area is mostly controlled by armed groups closely associated with Turkey, and Turkey plays a much more important role in this area, not only militarily, but also administratively. The Turkish authorities have assigned some of their own provincial administration's responsibilities for the administration of specific parts of northern Aleppo. These administrations and AFAD, the Turkish agency for emergency management, play an important role. At the same time, while Turkey has assumed various governance functions, local administrative structures play a more important role than in Idlib, making governance of the area more fragmented, as it lacks the clear integration into a consolidated government-style governance body that has taken place in Idlib.

The topic of this chapter is the influence of third parties on humanitarian negotiations with NSAGs. Who are these third parties in the context of northwest Syria?

One of the outcomes of the study at this stage is the fluidity of the concept of a third party, or the similarities between negotiating via third parties and other forms of negotiation. In many cases, it seems more appropriate to think of intermediaries, rather than third parties. When we started the study, we were particularly interested in the role that external state actors might have in mediating or intervening with the NSAGs they are supporting. However, the involvement of intermediaries in NWS is much broader and also blurs the boundaries between external and internal intermediaries. For

example, many humanitarian organisations rely on other humanitarian actors as intermediaries in negotiations. This includes both INGOs and local NGOs requesting OCHA to conduct negotiations on their behalf, for example, with the Salvation Government. It also means that humanitarian organisations push negotiation responsibilities downwards, to local implementing partners. This also occurs within humanitarian organisations, with task-sharing between field staff that frequently conduct negotiations and remote managers who have the ultimate decision-making power. Thus, intermediaries can frequently be found in the sector itself.

Beyond the humanitarian sector, intermediaries can include external states, the actors we primarily had in mind when thinking of the focus for the study, but also various other actors, for example, community figures who are used to intervene or negotiate with NSAGs on behalf of humanitarian actors. Another question mark when it comes to thinking about intermediaries are the increasingly vertically bureaucratised bodies like the Salvation Government, which is backed by an armed group like HTS. Here, humanitarians frequently negotiate with individual directorates, ministries, or local councils rather than the armed group itself. On the one hand, these actors frequently act as intermediaries in dealing with decision-makers in the armed wing that might be standing behind them. On the other hand, given that this is an increasingly consolidated bureaucracy with a division of tasks, it is doubtful whether we can really think of these bureaucracies as intermediaries.

There are many third parties and/or intermediaries are involved in NWS. Maybe we could start with the more obvious influencing actor in this region, Turkey. How does Turkey influence negotiations with NSAGs in NWS, and how does this fit into current debates around the topic of the influence of supporting actors on NSAGs? How do humanitarian actors navigate this field, and how do they involve Turkey in their access negotiations in the different areas in NWS?

Turkey has a military presence around Idlib, but when it comes to humanitarian activities its primary role is in northern Aleppo. Humanitarian actors usually obtain permits for their activities in northern Aleppo from the Turkish authorities before also obtaining these from the local Syrian authorities on the ground. This includes both the field assessments (if new locations are visited), as well as the implementation of projects. Projects are coordinated with AFAD, which has the primary responsibility when it comes to IDP camps, and the Turkish humanitarian coordination centre. NGOs also need an official registration in Turkey; otherwise, they face numerous obstacles when operating in northern Aleppo. Thus, humanitarian activities in northern Aleppo normally need to be greenlighted by the Turkish authorities and then coordinated with and greenlighted by the local Syrian authorities. At the same time, this also means that humanitarian actors can try to refer to the Turkish authorities in case they face issues with their local Syrian counterparts and try to use them as potential intermediaries if they face issues. However, while humanitarian actors can try to involve the Turkish authorities to put pressure on their counterparts in the field, they need to be careful to not jeopardise their relationships with local actors, especially because the Turkish authorities do not necessarily exercise full control over what is going on at the level of individual projects. To understand this, it may be helpful to think of some of the theoretical academic literature that has dealt with such situations, for example, some of the literature on principal agent dynamics or, more recently, on the so-called governor's dilemma. This literature emphasises that principals or governors frequently face issues controlling their supposed subordinates or proxies, be this because of information asymmetries or because governors face a trade-off between exercising control over their

partners and partners' ability to implement the tasks for which they have been recruited or used (Abbott et al., 2020; Popovic, 2017).

There is quite a lot of difference in terms of negotiating access in Idlib and northern Aleppo, which also has to do with the fact that HTS, the dominant group in Idlib, is designated as a terrorist organization by several states, including Turkey, as well, as per UN resolution[7]. Could you tell us more about the evolution of HTS and how the designation has impacted their behaviour and institution building? How does HTS deal with the designation, and how does it impact on their interactions and negotiations with humanitarian actors?

HTS is the successor group of the Nusra Front, the former Syrian al-Qaida affiliate. However, the group has gone through several iterations and severed its connections with al-Qaida, as well as focusing primarily on Syria, rather than transnational goals like al-Qaida, and including a process of "Syrianisation" of its cadres. It has generally tried to become an actor more palatable to some of the states with influence in Syria, including but not limited to Turkey. Over the past years this has included in-person meetings with international political analysts, more recently also international journalists inside Idlib.

A similar process has played out in HTS interactions with humanitarian actors. The Nusra Front had set up an administration for services to both provide services in areas under its control as well as to deal with humanitarian actors. Humanitarian actors that have interacted with this office have described these contacts as quite inflexible and mostly attempts at dictating working modalities to humanitarian organisations, with an only limited understanding of how such organisations work, and often with a view to profiting materially

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[7] On 5 June 2018, the Security Council Committee, pursuant to resolutions 1267 (1999), 1989 (2011) and 2253 (2015) concerning ISIL (Da'esh), Al-Qaida, and associated individuals, groups, undertakings and entities, enacted the amendments specified with underline and strikethrough in the entry below on its ISIL (Da'esh) and Al-Qaida Sanctions List of individuals and entities subject to the assets freeze,

travel ban and arms embargo set out in paragraph 1 of Security Council resolution 2368 (2017), and adopted under Chapter VII of the Charter of the United Nations.
https://www.un.org/press/en/2018/sc13365.doc.htm)

from such programming, by trying to impose taxation. Over time, HTS has to an extent adapted to the needs of humanitarian actors interacting with it. By creating a civilian authority in charge of administering Idlib, the establishment of the SSG can be seen as an attempt to create some distance between the armed group (and a DTG at that) and the institutions humanitarian actors need to coordinate with. Similarly, the SSG does not officially request direct taxes from humanitarian organisations anymore, although there are likely indirect taxation processes ongoing, for example, through the taxation of contractors working with humanitarian actors.

The SSG also seems to have become more careful when it comes to attempting to influence the design of humanitarian programming, both by changing approach and by reframing it in terms more palatable to humanitarian organisations. Humanitarian organisations are required to coordinate with it, but the SSG now frequently frames attempts to influence the programming of humanitarian actors in terms of technical input, rather than an imposition of certain conditions. The SSG has also mostly had to accept the autonomy of humanitarian actors when it comes to the design of most programming and even the relative independence of whole sectors. A good example of this is the medical sector, in which a coordination body is active that has for a long time been able to function quite autonomously from the SSG (the body was even initially founded as nominally part of the Syrian Interim Government, a governance body the SSG was founded in opposition to). The SSG tends to understand donor regulations and tries to use these as leverage themselves, for example, making differentiated demands depending on who the donor is, and their perceived level of strictness.

We see a lot of flexibility on the side of the counterpart. What are the coping strategies of humanitarian actors in dealing with the DTG? How do humanitarian actors engage with HTS and the SSG? What does it mean to negotiate with a DTG, and how does the designation impact on humanitarian operations?

Humanitarian actors essentially find themselves in a situation where, on the one hand, they are limited in terms of the interactions they can have with the armed group controlling the area due to its DTG status and legal and donor constraints on interaction with them and, on the other hand, it is necessary to interact with the people in control of the area if they want to carry out effective humanitarian programming. At the least, coordination with local authorities is absolutely essential for the implementation of humanitarian activities. Humanitarian organisations have attempted various coping strategies for dealing with this issue. Mostly, humanitarian organisations interact with the civilian authorities, rather than the armed actors linked with them. This can occur at different levels. Some interact primarily with the lowest levels, for example, Local Councils; others engage these authorities also at other levels. Here, it is essentially a question of our judgment whether we interpret this as the use of intermediaries (to the military actors in control), or whether this is a merely a natural process of interacting with an increasingly vertically integrated bureaucracy that divides tasks between different bureaucratic institutions, and where the responsibility for dealing with the humanitarians would indeed fall on these civilian administrations. Frequently, these interactions are framed in a way that makes such engagement supposedly less official and thereby more acceptable. For example, some organisations only share information with the SSG orally, rather than in writing. Many do not recognise documents bearing the stamp of the SSG as "official" documents. There have been whole debates about whether to accept so-called "Non Objection Letters" from the SSG, in which the SSG states that it has no objections to an organization's activities in an area, or whether it is unacceptable to request such letters.

To what extent are intermediaries used to work around constraints resulting from the designation?

Many organisations, especially INGOs, also delegate negotiation activities to other actors. This can occur through the pooling of shared access concerns through OCHA, which is able to approach the SSG at high levels, usually in Turkey, to negotiate issues of shared concern. This has the advantage that, given that it is OCHA, and that it can claim to speak in the name of numerous organisations, it potentially has greater negotiation power than individual organisations. Another tactic is to outsource access negotiations to local implementing partners who frequently have greater leeway to approach the SSG and its representatives. Sometimes this can be understood as a process of risk-sharing, at other times also of risk-transferring, where the partners that programmes are being outsourced to are the ones that bear the risk of negotiating operational access. Another frequent tactic is the mobilisation of local communities or key people in these communities to speak on behalf of humanitarians, either through direct mobilisation or through awareness-raising on an organization's activities. Here, humanitarians anticipate that in case their activities should be affected this might mobilise communities. Finally, even where organisations implement their own projects, many INGOs and Syrian NGOs delegate within the organization to an extent, with a division of tasks between negotiators in the field and decision-makers in HQ who often supervise programming remotely and have the final say on the outcomes of negotiations.

Is it very clear for the field negotiator what the red lines are when negotiating with a DTG?

Mostly, these red lines are linked to the core humanitarian principles, to the design of programming, for example who to include on beneficiary lists or internal institutional policies, for example hiring practices or information-sharing. While certain types of issues frequently come up, in many cases the red lines are still decided on a case-by-case basis, especially if they are not directly linked to the core humanitarian principles. This can also create certain ambiguities for the field negotiator, although most organisations try to reduce these

by strengthening internal information flows. At the same time, the structuring of humanitarian operations, through remote management, the restrictions imposed by donors when it comes to interactions with a DTG and the sometimes elaborated implementation chains linking different organisations as implementing partners can create additional ambiguities. At times, donors impose very strict conditionalities that, if implemented fully, make operating in the field extremely challenging. Thus, field negotiators frequently have to navigate the tension not only between attempts by the local authorities to influence their activities and principled humanitarian action, but also the additional restrictions linked to the DTG status and imposed, among others, by donors. Again, information-sharing is often a useful tactic to address such ambiguities, but it may also reduce negotiators' space to negotiate arrangements compatible with principled humanitarian action. Of course, for field negotiators, this can also have deeply personal implications.

What are the (security/economic) implications for the field negotiator?

Humanitarian activities are a key pillar of the NWS economy and working for a humanitarian organization often provides a comparatively good economic status. At the same time, given the difficulties of obtaining such a job, some field negotiators can face strong economic incentives to keep activities going, possibly even at the cost of compromising on principles. This risk may be even more acute for smaller organisations that depend on the success and continuity of individual projects. At the same time, it is also very important to remember that the field negotiators usually live in the communities on which they negotiate. Being seen as uncompromising and inflexible might therefore pose security risks for them. There have been cases in NWS where negotiators have been abducted; there have also been instances of humanitarian workers robbed or killed. Given the general security challenges in the area, it is often impossible to know whether an incident is linked to a humanitarian's professional activities or is unrelated, for example, of criminal nature. Such ambiguities can also be exploited by

counterparts, for example, as they might be able to hint at consequences without any explicit threats. Many organisations attempt to mitigate such risks, for example, by showing clearly that field negotiators are not the actual decision-makers, by sending higher-ranking staff for crucial negotiations, or by negotiating key questions at higher levels before involving lower-ranked field negotiators. However, all of these are mitigating tactics, rather than eliminating the security risks for field negotiators.

HTS questioned the neutrality of humanitarian actors on several instances. An example mentioned frequently was the car registrations that humanitarian actors are reluctant to do with HTS but are open to pay for in NE Syria and Kurdish territories. To what extent does the designation impact on principled humanitarian action?

There are indeed some question marks on this. Mostly, donors have more general policies on limiting/avoiding contact and negotiations on humanitarian programming with armed actors, in order to avoid supporting conflict parties in one way or another. Thus, some of the same donors active in Idlib have similar policies when it comes to limiting interaction with armed actors in northern Aleppo. At the same time, there are indeed some question marks about the extent to which the limitations linked specifically to the designation may impact humanitarian action and whether humanitarians and donors are always consistent when it comes to interacting with DTGs, FTOs, and other NSAG actors. This emphasises some of the ambiguities that exist in the humanitarian sector anyway, for example, the different legal standing of state and non-state authorities. The designation highlights some of the questions this creates, for example whether the raising of fees by such actors is always diversion of humanitarian funding, and whether it constitutes material support to terrorism. There may also be a different willingness to accept such ambiguities on the part of donors when it comes to dealing with different actors, NWS, and northeast Syria (NES) possibly being examples of this. This has

also been noticed by the interlocutors. A comparison is sometimes made by SSG representatives with the way humanitarian organisations are operating in areas under government control, and why they are willing to tolerate a higher degree of interference in those areas than in NWS. Another similar issue were the debates that have occurred around the registration of cars in NWS and the required registration fees. This was rejected by most humanitarian organisations and they negotiated an exemption for humanitarian-owned vehicles. At the same time, there are (higher) registration fees for cars also in NES; these have not created the same types of debate. These types of issues can come up in conversations and negotiations with interlocutors and create a perception of inconsistency.

Conclusion

In much of northern Aleppo, Turkey — as an external state actor — plays a key governance role supporting, and often steering, local partners. In Idlib, on the other hand, a locally dominant armed group, HTS, has been heavily involved in the setting up of a central administration. Here, Turkey, while having a key military role, is barely involved in governance matters. Turkey's involvement as a key supporter of local NSAGs in northern Aleppo increases predictability and clarifies access requirements for humanitarians, while arguably shrinking their ability to shape these regulatory requirements through negotiation. While Turkey's influence over local NSAGs and governance bodies provides humanitarians with an additional entry point to influence their counterparts, disagreements will normally still need to be solved at local level, meaning that the leverage this provides humanitarians should not be over-estimated. Ultimately, humanitarians still need cooperative relationships with their local counterparts on the ground to be able to implement programming successfully.

In Idlib, negotiating through intermediaries is frequently linked to the terror designation of HTS. Humanitarians have used various

instruments to allow humanitarian access and provide assistance to the area despite this designation. The designation has provided humanitarian organisations with some transactional negotiating leverage vis-à-vis their counterparts in the field (while complicating their interactions with donors), but also made the type of relationship-building that is at the core of many humanitarian negotiations far more complicated. To an extent, counterparts have attempted to accommodate humanitarians' concerns, including through the setting up of governance bodies "shielding" humanitarians from interaction with DTG counterparts. While it could be argued that other factors played a more important role in the creation of this set-up, and while it does not necessarily imply that NSAG counterparts have given up on their own agendas, the existence of these administrative bodies arguably facilitates the coordination of humanitarian action.

Beyond these local governance bodies, different forms of delegation and negotiation via intermediary within the humanitarian sector have transposed some of the principal-agent dilemmas faced by external supporters of NSAGs to implementation chains within the sector. Moreover, they arguably increase the already heavy pressure on field negotiators. Beyond the normal pressures that humanitarian access negotiations in the field bring, they have to navigate the sometimes contradictory requirements of ensuring humanitarian access while limiting interaction with DTGs, often with both their economic status and their personal security at stake.

While the situation between Idlib and northern Aleppo is ostensibly quite different, there are also some striking similarities between both areas and in how humanitarians need to negotiate access. In both areas, while humanitarians rely on interacting with Turkish government agencies and the SSG, respectively, one can question whether these are intermediaries, or rather an integral part of the respective local governance structures. Instead, when it comes to the mobilisation of "third parties" for humanitarian purposes, one needs

to point to the frequent involvement of key local community members and local communities. Humanitarians often rely on local actors with strong social influence to overcome access obstacles, emphasizing the importance of such local social factors, even in situations of external influence. Finally, and linked with this point, despite efforts in both Idlib and northern Aleppo to build up functioning centralized governance structures, local conditions continue to shape negotiation environments, leading to important differences in access within the two broader territories. Thus, an analysis at the governorate level (as is the case here) can highlight important structural elements while risking obscuring such local differences.

Way forward

Based on this research carried out in the framework of the Think Tank, the CCHN is drafting a guidance document with recommendations for humanitarian practitioners operating in this region and organized a Peer Workshop and Specialized Session on this topic in September 2021.

The case of humanitarian negotiation in northwest Syria is just one example that shows the tremendous impact third parties have on these negotiations. The Think Tank will take the findings from this context to carry out comparative studies in other contexts with the objective to support field practitioners in their engagement with NSAGs and the third parties who influence them.

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