

Aid and non-state armed groups

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Question

What are the lessons learned on the use of aid conditionality to influence non-state armed groups in their provision of basic services/governance (e.g. health, education, justice)

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The K4D helpdesk service provides brief summaries of current research, evidence, and lessons learned. Helpdesk reports are not rigorous or systematic reviews; they are intended to provide an introduction to the most important evidence related to a research question. They draw on a rapid desk-based review of published literature and consultation with subject specialists.

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1. Summary

This rapid literature review collates lessons related to aid (conditionality) and non-state armed groups (NSAGs). This is a companion paper to Herbert (2019)¹ which looks more broadly at lessons from the use of aid conditionality in peace processes, that paper includes greater detail on what conditionality is.

While the question posed sought to find information on where the following three issue areas collide: aid conditionality; influencing NSAGs; and the provision of basic services and governance by NSAGs. This rapid review did not find one article focussed on this specific question, nor did it find information on different combinations of just two of these issue areas. Due to this dearth of information, this query collates lessons on related issues, including: lessons from external actor-NSAG relations; aid conditionality used in fragile and conflict affected states (FCAS); and negotiations and cooperation between NSAGs and humanitarian actors.

There may be various reasons for this lack of information. Firstly, as it is obviously very difficult for international actors to fund NSAGs, and even just dialogue is subject to increased scrutiny and controls. Second, as aid conditionality is most relevant when there is a high level of leverage over the actor, and this is typically very limited with NSAGs who do not directly receive much aid. Third, if they do receive or benefit from aid, much will likely be humanitarian, not development, aid. And the consensus is that it is not ethical, practical or legal to use conditionality with humanitarian aid. Aid is almost most likely to be given related to the achievement, or implementation, of peace agreements. Fourth, if (and when) aid is provided to NSAGs, it is unlikely to be documented in publicly available papers due to sensitivities. Fifth, this whole enquiry is complicated by the fact that most aid is conditional (to some degree), and the term and understanding of conditionality is not clear, and is often not used in the literature. Notably, the language of conditionality has become more unpopular as the international community has favoured principles of partnership, local ownership, and selectivity (Goodhand, 2006). This all complicates the search for literature for this paper, and the criteria for inclusion.

All of these factors may explain why so little information is publicly available on this subject. While we know that NSAGs often provide extensive services to the people living in areas they control, there is very little literature that documents whether and how external actors provide the NSAGs with conditional aid to do so, and the lessons from that. The closest this rapid review got to finding such information was passing comments in the literature – e.g. on occasional work by international NGOs that complements, or implements, work by ethnic armed groups in Myanmar on health, education, and agriculture (South & Joll, 2016); donors funding state and non-state actors to provide health services in Myanmar (though it does not mention whether that includes NSAGs) (Décobert, 2020); donor funding to new civil society groups in Syrian opposition areas to deliver services and humanitarian aid – however in this example they are generally only funded on the condition that they are independent from NSAGs (Meininghaus, 2016; Elhamoui & al-Hawat, 2015). Due to the dearth of information on this subject, this review draws on some very

¹ Herbert, S. (2019). Lessons from the use of aid conditionality in peace processes. K4D Helpdesk Report. Brighton, UK: Institute of Development Studies.

old literature from the 2000s (and even the 1990s), when “conditionality” was a more popular concept.

Key findings

Historically development actors and policies have had a state bias, yet in the mid-1990s this began to change as development actors increasingly engaged with NSAGs. In contrast, for humanitarian actors, direct contact with NSAGs has always been a feature of its work, to negotiate access to populations at risk. NSAGs often provide extensive public services to the people living in areas they control, and in this, they can take on the role of proto states. While NSAGs post 9/11 tend to always be framed as spoilers and negative for development, examples reveal that NSAGs can play positive roles in development and in service provision. Grävingholt, et al. (2007, p.7) identify four ideal-type motives that may underlie engagement with NSAGs in the development policy context: access to target groups; responsibility for personnel; commitment to norms; and conflict transformation.

It is difficult for bilateral donors to engage directly with NSAGs as relations with NSAGs (especially funding relations) are often prohibited by the government of the country that the NSAG is based in. This difficulty is compounded by the use of terrorist lists, which can entirely prohibit and even criminalise external actors from engaging with NSAGs. Engagement with NSAGs should: take a conflict-sensitive approach; observe the do no harm principles; have clearly identifiable ends; be legally defensible; form part of an overall foreign policy strategy that is coordinated and coherent with other external actors (where possible); and be ethically defensible (Grävingholt, et al., 2007)

Generally, relations between NSAGs and international actors are taken up by the UN, other humanitarian actors, and international non-governmental organisations (INGOs) – their engagements can include: negotiating and securing access to territories for the delivery of humanitarian aid and basic services; negotiations with kidnappers; political appeals to NSAGs (e.g. regarding child recruitment, of human rights obligations; conflict mediation relations; and funding the implementation of a peace agreement. The different external actors have different means and methods of engagement with NSAGs – e.g. state actors can use coercive measures, bribery and blackmail; international organisations can use political leverage; and NGOs use mechanisms that do not require massive resources and political authority. Relations between NSAGs and international actors are likely to be mediated by local actors who may already be able access to NSAGs, but may require more agency to influence them (Haspeslagh & Yousuf, 2015).

NSAGs are more likely to receive, or benefit from, aid: following the agreement of a peace process to ensure implementation; during ceasefires; during peace processes; and during humanitarian crises. NSAGs may benefit from funding that does not go directly to them, but funding for services in the regions they control.

Aid conditionality is most relevant when there is a high level of leverage over the actor – e.g. when the recipients are aid dependent or are dependent on one industry that can be controlled/restricted by an external actor, or coordinated external actors. As NSAGs are unlikely to receive much aid, and as their revenue sources tend to be illicit, the potential for external actors' leverage tends to be limited. The potential for leverage may increase after a peace agreement, when the NSAG is allowed to receive aid or aid funded services according to peace process conditions. Conditionality is more likely to be effective when it is responsive to the

incentive structures of the conflict parties, the decision-making processes of the principal leaders, the interests, incentives and power of the NSAGs, and the wider socio-political context.

There are extensive and contentious debates over whether it is appropriate to use conditionality with humanitarian aid. In general, the consensus of opinion is that, in principle, humanitarian aid should not be conditional, and should be administered as a right to all people, no matter whether they live in an area dominated by NSAGs. This is especially important considering that the impact of conditionality is not predictable, and there is little evidence, in general, as to whether it is effective in securing its aims.

As NSAGs, by their nature, tend to operate in FCAS, where conflict may be ongoing, and where protracted emergencies may be ongoing, much of the aid delivered to those areas may be considered humanitarian (rather than development) aid, and thus is not suitable for conditionality. Notably, the boundary between humanitarian and development categories is blurry. And this argument is further complicated by the lack of clarity about what is considered to be “conditional”, and the use of that term in the literature. While the term “conditionality” is usually used to refer to more specific “hard”² forms of carrot and stick incentives (Herbert, 2019), in humanitarian situations it could also be understood to include basic rules agreed to secure access (e.g. “ground rules”).

In comparing the different tools the different external actor groups have to make their aid, or relations, conditional, Chong (2002) finds international organisations: can apply some leverage in negotiations through punishing or rewarding; can offer political responsibility; and can provide a platform for rapprochement between governments and NSAGs. While, NGOs: generally have less leverage, are insufficiently co-ordinated, and have more responsibility for protecting vulnerable populations, therefore, conditionality is more problematic (Chong, 2002).

Humanitarian aid has been delivered directly through NSAGs during humanitarian crises. While “hard” conditionality is considered not suitable for humanitarian aid, these arrangements are underpinned by “ground rules”, which as mentioned above, could be understood as a form of “soft” conditionality, although the rules are much less likely to be enforced in cases of non-compliance due to international humanitarian law (IHL) principles.

Since 9/11, humanitarian, development and peacebuilding work and dialogue that engages with NSAGs has become even more complex due to heightened sanctions and counterterrorism measures. The view all armed actors are spoilers denies the historic and social legitimacy that many groups have (Podder, 2012). The most effective way to ensure humanitarian operations do not violate laws is to secure exemption clauses from sanctions regimes, counterterrorism measures, and national laws (Gillard, 2017).

² Goodhand and Sedra (2007) explain the different variations of conditionality, including when the conditions for compliance are more explicit and stricter (hard conditionality), compared to when the conditions are less explicit, more subtle forms of disciplining or signalling (soft conditionality). See the companion paper - Herbert (2019) – for more detail on conditionality.

2. External actors and NSAGs - lessons

Engagement – forms and motives

Historically development actors and policies have had a state bias, yet in the mid-1990s this began to change as development actors increasingly engaged with NSAGs, e.g. through peacebuilding roles, through work on disarmament, demobilisation, and reintegration (DDR), and through increased work in fragile and conflict affected states (FCAS). In contrast, for humanitarian actors, direct contact with NSAGs has always been a feature of its work, to negotiate access to groups at risk (Grävingholt, Hofmann & Klingebiel, 2007, p.2). Foreign policy relations with NSAGs were more common during the Cold War, with foreign governments financing NSAGs in their proxy war (Dudouet & Galvanek, 2018). While this trend decreased significantly in the 1990s, foreign governments still finance or provide support to some NSAGs (mostly covertly) – e.g. in Syria, the Democratic Republic of the Congo (DRC), and Yemen (Dudouet & Galvanek, 2018). Yet, “despite the rising number of situations in which those engaged in development activities come into contact with NSAGs, virtually no systematic or even incidental thought was given to their conduct until the early 2000s” (Grävingholt, et al., 2007, p.2).

NSAGs often provide extensive public services to the people living in areas they control, and in this, they can take on the role of proto states, with the accompanying social legitimacy, political roles and aspirations (Podder, 2012, p.29). E.g. in Myanmar, ethnic armed groups (EAGs) “have long demonstrated state-like qualities, with larger groups such as the KNU exercising authority over sometimes quite extensive territories... In these areas of influence, the KNU and its counterparts have developed departments of health, education, and agriculture” (South & Joll, 2016). Other examples where NSAGs have established quasi-states in areas under their control include: the Sudan People’s Liberation Army (SPLA) in South Sudan; the Liberation Tigers of Tamil Eelam (LTTE) in northern and eastern Sri Lanka; and the Moro Islamic Liberation Front (MILF) in Mindanao, The Philippines (Podder, 2012).

While NSAGs post 9/11 tend to always be framed as spoilers and negative for development, examples from India, the Philippines, Syria, and Ethiopia reveal that NSAGs can play positive roles in development and in service provision (Davis & Jolliffe, 2016, p.33-34). E.g. in southeast Myanmar, this is particularly relevant as EAGs have crucial governance roles, and as the Myanmar government is not considered legitimate by locals in some areas, and as while the government is a development actor, it is also a party to past and current conflicts in Myanmar (Davis & Jolliffe, 2016, p.34).

Grävingholt, et al. (2007, p.7) identify four ideal-type motives that may underlie engagement with NSAGs in the development policy context:

1. **“Access to target groups:** By engaging with NSAGs, development policy can pursue the objective of reaching target groups in an area.
2. **Responsibility for personnel:** By working in a region where NSAGs are active, local and/or external development cooperation personnel may be exposed to considerable danger; more deliberate engagement can greatly reduce some of the risks.
3. **Commitment to norms:** Engagement may also be of interest from the development angle as a means of helping to persuade an NSAG to commit itself to rules and standards (human rights, etc.).

4. **Conflict transformation:** While access to target groups and responsibility for personnel may often be reasons for beginning to engage with NSAGs, a further objective of engagement may be to contribute to conflict transformation”.

Bilateral donors relations with NSAGs

It is difficult for bilateral donors to engage directly with NSAGs as relations with NSAGs (especially funding relations) are often prohibited by the government of the country that the NSAG is based in (Dudouet & Galvanek, 2018). The room for manoeuvre that development policy, and foreign policy, enjoys in relation to NSAGs is strongly determined by the government of the country concerned. Those countries with more generally legitimised and efficient governments are more likely to determine this relationship (Grävingholt, et al., 2007, p.9-10). Whereas, where “governments are de facto weak, the monopoly of power is severely restricted and/or legitimacy is lacking, there may be some room for manoeuvre in other respects (Grävingholt, et al., 2007, p.9-10).

This difficulty is compounded by the use of terrorist lists, which can entirely prohibit and even criminalise external actors from engaging with NSAGs (Dudouet & Galvanek, 2018). And as “hard” aid conditionality is only morally and practically appropriate for development aid, and not humanitarian aid, this further limits the relevance of examining bilateral donors’ ability to influence NSAGs through aid, and through aid conditionality (Boyce, 2004). As Boyce (2004) explains: “Given the practical and ethical objections to conditionality on humanitarian aid, the relevant sort of aid is development and reconstruction assistance... And since ODA goes to governments (or, with government permission, to NGOs), conditionality generally offers little scope for influencing anti-government rebel groups, unless they receive support from neighbouring governments to whom it can be applied”. Yet while bilateral donors tend not to fund NSAGs directly, they do have other relations, such as acting as mediators between the NSAG and the state.

Grävingholt, et al. (2007, p.2) identify the following requirements for development actors’ engagement with NSAGs:

- “Any engagement with NSAGs should take a highly conflict-sensitive form and be situationally appropriate; this also means the conscious adoption of a position on state violence in each case.
- In particular, the principle of “doing no harm” must be observed.
- Engagement with NSAGs should not be an end in itself but a means to an important, clearly identifiable end.
- The form of engagement should be legally defensible (against the background inter alia of constantly evolving international criminal law).
- It must also form part of an overall foreign policy strategy that commits all external policy actors (especially in the areas of foreign, security and development policy) to a coordinated and coherent approach.
- Finally, it should be ethically defensible in the sense that the decision whether certain forms of engagement are acceptable is guided by principles that can be generalised.”

Relations with other external actors

Generally, relations between NSAGs and international actors are taken up by the UN, other humanitarian actors, and international non-governmental organisations (INGOs) – their engagements can include: negotiating and securing access to territories for the delivery of humanitarian aid and basic services; negotiations with kidnappers; political appeals to NSAGs (e.g. regarding child recruitment, of human rights obligations; conflict mediation relations; and funding the implementation of a peace agreement. Other international actors may also have relations with NSAGs – such as international religious organisations, and international advocacy organisations. E.g. South and Joll (2016) mention occasional work carried out by international NGOs that complements, or implements, work by ethnic armed groups in Myanmar on health, education, and agriculture (South & Joll, 2016). Another example is the international solidarity organisations which raised funds for the Farabundo Martí National Liberation Front (FMLN) in El Salvador in the 1980s (Kruijt, 2008 in Dudouet & Galvanek, 2018).

The different external actors have different means and methods of engagement with NSAGs. “State actors will be more likely to be able to use coercive measures or bribery and blackmail when attempting to influence the behaviour of armed actors, international organisations will be able to use their political leverage, and NGOs will focus on mechanisms that do not require massive resources and political authority” (Hofmann & Schneckener, 2011). Case study analysis of northern Uganda and Colombia revealed that the most effective and welcome external interventions were when the ideas and norms resonated with local priorities and approaches (Haspeslagh & Yousuf, 2015).

Relations between NSAGs and international actors are likely to be mediated by local actors – such as: specific peace negotiation support structures (or ‘peace architectures’) associated with the conflict parties; local NGOs; or CBOs. E.g. Dudouet and Galvanek (2018) find that international funding has been channelled via the peace negotiation support structures in Sri Lanka with the LTTE Peace Secretariat, and in the Philippines with the Bangsamoro Leadership and Management Institute in Mindanao. Again, this refers to the funding of peace process activities across a broad spectrum of areas, and not necessarily the funding of NSAGs’ provision of basic services or governance. Another example is provided by Décobert (2020), who notes that donors fund state and non-state actors to provide health services in Myanmar in areas dominated by the EAGs – although this paper does not mention whether this funding directly goes to the EAGs. In Syria, international actors are able to fund civil society groups in Syrian opposition areas to deliver services and humanitarian aid (so called “Local Administrative Councils” (LACs)), however, the LACs are generally only funded on the condition that they are independent from the NSAGs (Meininghaus, 2016; Elhamoui & al-Hawat, 2015).

NSAG engagement for local communities brings specific, different challenges. E.g. while there may already be access to, and relationships with, NSAGs (including with leaders), the ability to influence “requires much more active agency, including adaptation of existing networks and development of innovative ways to sway armed actors” (Haspeslagh & Yousuf, 2015).

Aid related to peace processes and humanitarian crises

NSAGs are more likely to receive, or benefit from, aid: following the agreement of a peace process to ensure implementation; during ceasefires; during peace processes; and during humanitarian crises. E.g. the LTTE-controlled areas of north-east Sri Lanka received an influx of development aid from INGOs and international agencies (e.g. the World Bank) “as a

result of the ceasefire”, and also following the 2004 tsunami (Dudouet & Galvanek, 2018). Another example is the aid that was pledged during the Tokyo Conference group for Aceh for infrastructure development, humanitarian aid and public information campaigns on the peace process (Dudouet & Galvanek, 2018). This would have benefitted the Free Aceh Movement (GAM), however the pledges were withdrawn when the ceasefire collapsed in 2003 (Dudouet & Galvanek, 2018).

The aid influx “contributed substantially to the development of Tamil governance structures” in north-east Sri Lanka find Dudouet and Galvanek (2018). As “the Tamil administration sought to retain control of the development process and wanted to be perceived as a reliable partner, so it developed new structures such as the Planning and Development Secretariat to coordinate NGO activity (Mampilly, 2011 in Dudouet & Galvanek, 2018). The article does not mention the role of aid conditionalities in this. In another paper, Sindre (2014) compares the GAM in Indonesia to the LTTE, and finds that in post-settlement Indonesia, conditionality did contribute to positive outcomes, where the inclusion of rebels into the formal aid bureaucracy may have helped transform its militarist structures and strengthen its civilian capacities to become a politico-bureaucratic organisation.

NSAGs may benefit from funding that does not go directly to them, but funding for services in the regions they control. NSAGs may enhance their legitimacy and support base, relative to other actors, through capturing and then redistributing humanitarian aid to support local services (Podder, 2013). NSAGs may also illicitly divert aid through manipulating donors, e.g. by pretending to be civilians, or by theft (Dudouet & Galvanek, 2018). E.g. the latter happened in South Sudan with the SPLA/M (Podder, 2014 in Dudouet & Galvanek, 2018).

Conditional aid to NSAGs?

Aid conditionality is most relevant when there is a high level of leverage over the actor – e.g. when the recipients are aid dependent or are dependent on one industry that can be controlled/restricted by an external actor, or coordinated external actors (Goodhand, 2006). As NSAGs are unlikely to receive much aid, and as their revenue sources tend to be illicit, the potential for external actors’ leverage tends to be limited, and thus it is unlikely that “hard” conditionality is used frequently with NSAGs related to their delivery of services.³ For this reason, conditionality has typically been used and viewed as a state-to-state tool, particularly as NSAGs tend not to be able to receive ODA, the key element of aid conditionality (Boyce, 2004). However, some authors e.g. Goodhand and Sedra (2007) have broadened this view to look at state-to-non-state actors too. Leader and Macrae (2000) highlight that conditional aid would be practically unlikely to have much impact on rebel groups anyway, as aid plays a small role in their decision-making. Yet, Philpot (2011) notes that “when resources are scant in a conflict, the material manifestations of humanitarian assistance become a sought-after commodity by belligerents”, this contrasts with the aim of the humanitarian aid, which is to provide sustenance for victimised civilians.

³ Goodhand and Sedra (2007) explain the different variations of conditionality, including when the conditions for compliance are more explicit and stricter (hard conditionality), compared to when the conditions are less explicit, more subtle forms of disciplining or signalling. See the companion paper - Herbert (2019) – for more detail on conditionality.

The potential for leverage may increase after a peace agreement, when the NSAG is allowed to receive aid or aid funded services according to peace process conditions (Lenkova, 2015), e.g. aid for DDR (Goodhand & Sedra, 2007). Yet, in this context, NSAGs receive aid for many purposes, of which aid for their provision of services and governance may only be a small element, if at all. Further, the aid provided may be administered by a lot of external actors, not acting in a coordinated way, thus reducing the potential for leverage. And it is important to highlight that each case is unique – e.g. despite Myanmar’s ceasefire, the EAGs’ funding has largely remained the same, relying on taxing the local populations and businesses and on cross-border trade, while the number of international humanitarian actors in the Karen region has increased (Dudouet & Galvanek, 2018).

Conditionality is more likely to be effective when it is responsive to the incentive structures of the conflict parties, the decision-making processes of the principal leaders, the interests, incentives and power of the NSAGs, and the wider socio-political context (Barnes, McKeon & Griffiths, 2008; Barnes & Griffiths, 2008; Dudouet & Galvanek, 2018; Herbert, 2019). “When negotiating or mediating with an NSAG, it is critical to have sufficient understanding of the actor itself. This does not just mean knowledge of its demands and/or political grievances, but rather a much more in-depth understanding of the nature of the group and its sub-units, its specific and general interests, and the potential incentives that its members would respond to, specifically in terms of bringing them to or keeping them at the negotiation table” (Dudouet & Galvanek, 2018). See more on this in the companion paper - Herbert (2019).

Overall, if and when aid is provided to NSAGs, it is unlikely to be documented in publicly available papers due to sensitivities. Thus, while we know that NSAGs often provide extensive services to the people living in areas they control, there is very little literature that documents whether and how external actors provide the NSAGs with conditional aid to do so, and the influence of that.

There are extensive and contentious debates over whether it is appropriate to use conditionality with humanitarian aid. In general, the consensus of opinion goes against this. The consensus is that, in principle, humanitarian aid should be administered as a right to all people, no matter whether they live in an area dominated by NSAGs (Boyce, 2004; Meininghaus, 2016). Thus, even if aid might benefit the NSAG directly or indirectly, this does not override the imperative that humanitarian aid must assist all people in need. This becomes complicated when the provision of humanitarian aid may fuel, or prolong, a conflict, e.g. as it is considered to have done in Sudan through the Operation Lifeline Sudan (OLS) (MacRae, 1996).

This is especially important considering that the impact of conditionality is not predictable, and there is little evidence, in general, as to whether it is effective in securing its aims. E.g. In Afghanistan, many donors and NGOs considered it unethical to apply conditionality to the Taliban, and they doubted conditionality would be impactful as the Taliban did not appear to care much about the welfare of populations under its control (Boyce, 2004). “After much debate, the Strategic Framework adopted a compromise whereby ‘life-saving’ aid was exempt from conditionality, while ‘life-sustaining’ aid could be subject to conditionality, a tenuous distinction” (Boyce, 2004). The conditionalities were “widely regarded as a failure” due to them: doing little to change the Taliban; undermining the effectiveness of the programme; and being applicable for only a little amount of the aid (Boyce, 2004). The failure is also attributed to: the aid agencies’ business-as-usual mentality favouring “project over plan and agency over agenda”; the limited leverage of aid relative to other flows (e.g. opium, and aid from Saudi Arabia); the UN and NGOs’ reticence to apply conditionality (Boyce, 2004).

As NSAGs, by their nature, tend to operate in FCAS, where conflict may be ongoing, and where protracted emergencies may be ongoing, much of the aid delivered to those areas may be considered humanitarian (rather than development) aid, and thus is not suitable for conditionality. Importantly, the boundary between humanitarian and development categories is blurry and artificial, especially in protracted and complex conflicts.

However, this argument is complicated by the lack of clarity about what is considered to be “conditional”, and the use of that term in the literature. E.g. the OLS Review of aid in South Sudan concludes that conditionalities on relief aid is justified when these help the aid to meet its humanitarian principles (particularly: neutrality and impartiality), and when they help the relief aid be effective and efficient. “It is only by active implementation and monitoring of these humanitarian principles that manipulation of relief supplies by warring parties can be minimised, the interests of war-affected populations be safeguarded and subsequently the impact of relief maximised” (MacRae, 1996).

While the term “conditionality” is usually used to refer to more specific “hard” forms of carrot and stick incentives (Goodhand & Sedra, 2007; Herbert, 2019), in humanitarian situations it could also be understood to include basic rules agreed to secure access (Harmer & Stoddard, 2018; Chong, 2002). These tend to be called difference terms, and have their own separate literature to the literature on aid conditionality; the terms include: joint operating principles, operating guidelines, guiding principles, and ground rules (Harmer & Stoddard, 2018). Harmer and Stoddard (2018) define these “as agreements which are designed to establish shared thresholds or to ensure standards for principled access in insecure operating environments”. Examples of these include (Harmer & Stoddard, 2018, p.12-13):

- “Sudan: Ground Rules of Operation Lifeline Sudan (1989/resigned in 1995);
- Liberia: Principles and Protocols of Humanitarian Operations (1995)
- Democratic People’s Republic of Korea: Statement of Humanitarian Principles (1998, updated 2001)
- Sudan/Darfur: Principles for Collaboration between UN, NGOs and the Humanitarian Coordination of the Representation of the Rebel Movement in Darfur (Sudan) (No date)
- Somalia: Towards an Effective Humanitarian Partnership: Somalia Draft Protocol with Supreme Council of the Islamic State (2006) (Draft Protocol)
- Sri Lanka: Guiding Principles for Humanitarian and Development Assistance in Sri Lanka (2007)
- Somalia: Inter-Agency Standing Committee Ground Rules: Advisory Note on Practical Considerations for Negotiations in Somalia (2009)
- Somalia: NGO Consortium: NGO Position Paper on Operating Principles and Red Lines (2009)
- Afghanistan: Principles of Access: Assisting People in Need in Afghanistan (2014)
- Syria: Protocols of Engagement with Parties to the Conflict to Deliver Humanitarian Assistance in Northern Syria (2014)
- Syria: UN: Principles of Engagement of Humanitarian Organizations with Civilian Administration Entities Cross-border Humanitarian Response (No date)
- Ukraine: Humanitarian Country Team: Guidelines for Humanitarian Operations (2015)
- Northeast Nigeria: OCHA: Guidelines for Humanitarian Operations (2016) (Draft)

- Syria: UN Parameters and Principles of Assistance in Syria (2017)
- Yemen: Humanitarian Country Team: Joint Operating Principles of the Humanitarian Country Team: A Principled delivery of humanitarian assistance in Yemen (No date)”

Chong (2002) elaborates on the different tools the different external actor groups have to make their aid, or relations, conditional:

International organisations (Chong, 2002):

- can apply some leverage in negotiations with NSAGs by punishing (e.g. economic sanctions, naming and shaming), or rewarding (e.g. providing development aid or DDR for conforming behaviour in a peace process.
- may offer a share of political responsibility e.g. by integrating NSAGs into post-conflict governance, power-sharing agreements.
- are useful in offering a platform for rapprochement between governments and NSAGs.

NGOs (Chong, 2002):

- generally have less leverage, are insufficiently co-ordinated, and have more responsibility for protecting vulnerable populations. Therefore, conditionality is more problematic.
- conditionality has the dual goals of: pressuring NSAGs to end conflict; and allowing basic supplies and services to reach vulnerable populations without obstruction
- have a problem as withdrawing aid may mean risking lives of non-combatants, going against their institutional mandates
- have another problem as using threats, or strict conditions, may cause the NSAGs to distrust the impartiality of the NGO
- may still have difficulties with proper implementation even if they have made humanitarian aid conditional on a peace agreement or a Code of Conduct

3. Humanitarian aid and NSAGs - lessons

Humanitarian aid has been delivered directly through NSAGs during humanitarian crises.

E.g. In South Sudan, through the OLS, the aid agencies provided services while the rebel group – the SPLA - acted as a gatekeeper with veto rights over the aid and transport (Podder, 2012). Another example is from Kashmir, where following the 2005 earthquake, the US and UN worked closely with Al Qaeda, with the backing of Pakistan to deliver humanitarian aid (Podder, 2012). Indeed, various humanitarian operations have been under the effective control of NSAGs due to access restrictions. This is not the ideal situation, as ideally direct aid deliveries would be made through humanitarian actors wherever possible (Meininghaus, 2016).

While “hard” conditionality is considered not suitable for humanitarian aid, these arrangements are underpinned by “ground rules”, which as mentioned above, could be understood as a form of soft conditionality, although the rules are much less likely to be enforced in cases of non-compliance due to IHL principles. E.g. in South Sudan through the OLS, despite the misuse of some of the humanitarian aid by rebels, donors did not stop providing aid, as it was helping civilians in crisis (Philpot, 2011). In fact, “the idea of terminating program operations in the Sudan in order to extract greater compliance from warring parties was seldom seriously considered” (Smillie & Minear in Philpot, 2011). Philpot (2011) concludes that when

operating in conflict zones, organisations “should have a clear understanding of the principles on which they are not willing to compromise and should have secondary plans (including withdrawal) ready for instances of manipulation or lack of cooperation by belligerent parties”.

Terrorist lists and restrictions

Since 9/11, humanitarian, development and peacebuilding work and dialogue that engages with NSAGs has become even more complex due to heightened sanctions and counterterrorism measures which have “discouraged, if not criminalised, engagement (Jackson, 2012; Gillard, 2017; Podder, 2012). This is particularly complex for humanitarian situations when NSAGs have effective control over civilian populations (Gillard, 2017). “The prohibitions on providing any support to designated groups are framed extremely broadly, and can potentially include relief supplies that are diverted to such groups or that otherwise benefit them; payments that humanitarian actors must make to such groups to be able to operate; and even the provision of medical assistance to wounded and sick members of the groups” (Gillard, 2017).

The “increasing tendency to view all armed actors as spoilers or terrorists and as a challenge to an established socio-political order” is short-sighted, it denies the historic and social legitimacy that many groups have (Podder, 2012). And it can complicate the process of peacemaking and negotiations, as typically NSAGs are also the parties to the conflict, yet the laws criminalise engagement with them. E.g. in Israel-Palestine and Sri Lanka this has constrained the engagement of some of the significant belligerent parties to the conflicts (Podder, 2013). When ceasefires and peace agreements are brokered, NSAGs can be removed from the terrorist lists, and external actors can then work with them easier – e.g. with Myanmar’s nationwide ceasefire agreement, all Karen armed groups were removed from the government’s list of Unlawful Associations (Lenkova, 2015).

Gillard (2017) explains that the most effective way to ensure humanitarian operations, when civilians are under the control of NSAGs, do not violate laws is to secure exemption clauses from sanctions regimes, counterterrorism measures, and national laws. However, Gillard (2017) emphasises that only one conflict-related UN Security Council sanctions regime included a humanitarian exemption at the time of writing.

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