HUMANITARIAN PRINCIPLES: ENGAGING WITH NON-STATE ACTORS

Summary
1. The humanitarian community faces increasing challenges if it is to achieve its objective of delivering emergency relief and protecting people in situations of conflict. As conflicts are now mainly intra-state, those civilians who need help and protection have greater strategic significance. Humanitarian organisations therefore need to engage and negotiate with a wide range of organised armed groups, the so-called non-state actors, and thus become increasingly skilful to achieve their objectives. Different sets of tools may be applicable when engaging with armed groups in different situations but such ad-hoc practices still need to seek the support of armed groups to respect humanitarian principles. Finding more systematic ways of engaging with different non-state actors, including through better analysis and learning from the traps and tricks of the past, without necessarily setting out a blueprint or model of procedures, would be advantageous. The tension remains, however, between ensuring the implementation of accepted humanitarian principles by all parties and the need for common sense and flexibility on the ground. There may need to be greater pragmatism over implementing the principles. And it is increasingly hard for humanitarians to avoid becoming politicised since engaging with armed organisations is a political act in itself and humanitarian aid has political consequences. Separately the humanitarian community could benefit from more dialogue with the corporate sector over their role in conflict situations.

Defining the issues
2. Humanitarian law and principles were designed for inter-state war, rather than for what is a growing trend of internal conflict, complex emergencies and the collapse of states. For the purpose of this report non-state actors relates to: firstly organised armed groups in whatever form such as militia, warlords, guerrillas, opposition groups, rebels-in-waiting or government-backed rebels. Most have a political remit of sorts, and in some cases there is little distinction between state and non-state groups, or none in the case of Somalia (a situation increasingly replicated elsewhere); secondly the corporate sector.

Political dilemmas
3. The interaction of humanitarian agencies with organised armed groups is essentially a political act in itself, conferring an element of recognition and legitimacy on the group or individual. From the perspective of recipients of assistance, the image of a humanitarian agency engaging with a particular faction can appear political despite the humanitarian agencies' claims of neutrality and impartiality. The humanitarian community needs to recognise that it thus takes on a political nature when seen locally e.g. Sierra Leone, or Somalia, or that what comes from the "outside" is regarded as bad e.g. Chechnya.

4. It is argued that the separation of humanitarian negotiations with non-state actors for access and acceptance of humanitarian principles, from the negotiation of a wider political process can be both desirable and beneficial (e.g. Sudan, DRC, Angola) where there is greater success in advancing humanitarian principles and rules of engagement. Where this can occur such negotiation needs the highest ethical standards. In many cases, however, the humanitarian and political negotiations cannot be separated. They become increasingly difficult to separate the closer an internal political solution becomes.

5. Similarly the distinction between humanitarian and political roles is becoming more blurred, with Western armies given humanitarian functions and humanitarians being used for political ends as a substitute for political solutions. MSF's recent Nobel Peace prize may have also added to the confusion. The ICRC's role, sticking to its clear principles to achieve aims of pure

humanitarian access and more independent than other humanitarian actors, can be seen as more neutral in some cases.

Humanitarian dilemmas in engaging with non-state actors
6.
i) The key practical dilemma in every situation is **who to deal with and who not to deal with.** This depends not only on the non-state actors themselves but their backers, including at times state actors, and the relationship between the armed group with their constituency of local civilians. When the objective is relief for all how bad (and criminal) do the armed groups need to be for humanitarians to decide not to deal with them? And when do the unacceptable become acceptable (eg RUF in Sierra Leone)? As internal conflicts become increasingly the preserve of unprofessional groups educated in war it becomes harder to chose one's partner. Engaging with diasporas can be an option, using them or others as third parties. In some situations engaging with a state actor first can be a challenge, especially if that country is also a member of the P5 such as with Russia in the case of Chechnya.

a) Local civilian groups can be equally important to humanitarians whether NGOs or church groups, for instance, who may have access to armed groups. (This was neglected initially in Somalia it is suggested). Providing practical and moral support to local NGOs can therefore be helpful, thereby increasing civil society's role as the promoter of humanitarian principles as has been demonstrated in Colombia, Sri Lanka and elsewhere. Educating civilians further on humanitarian law and the role of international NGOs is also beneficial and the use of the local media can be helpful in this. It is even more important to consult civilians and local actors including women. In many conflict situations however there are few local NGOs; building links with them takes time and is not necessarily the role of humanitarians and emergency aid organisations. But humanitarian agencies could benefit from the longer-term work of other organisations already in the field, by scaling up their programmes.

b) To understand who to deal with there is a need for more conscious and systematic analysis by the humanitarian community of the different armed groups and their backers in any given situation. Analysis of what makes them tick, their motives and vulnerabilities, leadership structures, recruitment, financial support, how they assert their influence locally, and relationship with appropriate state actors as well as analysis of the wider situational environment including economic factors. Sensitivity to the local situation, including recognition of common laws and traditions is also an important factor. Where there is an information vacuum, for instance Sri Lanka, analysis becomes harder. The question of sharing information and analysis between agencies needs to be better addressed whilst recognising rules of impartiality. Information gathering skills could also be improved.

ii) Who should take the **lead amongst the donor community** is always a dilemma. The UN can create greater humanitarian space by its leadership, but its flexibility can also be restricted and its perceived independence weakened if the UN co-ordinator plays a double role (e.g. as the local UN rep) given their necessary accreditation with state actors. International NGOs may have more flexibility in engaging armed groups. The UN needs to be more willing to talk to non-state actors and look at economic as well as political tools. With all humanitarian agencies the quality of staff is crucial to assert authority as negotiations depend on the personality of the negotiator, their skills and courage. One year contracts do not help, nor do humanitarian agencies arriving and departing on a short-term basis.

iii) Assessing the **appropriate stages and entry-points** for engaging with armed non-state actors at different times and different levels is another dilemma. This must be on a country-based approach. Again analysis is crucial, identifying the layers within an armed organisation (how many changes of car to reach the key player for instance) and recognising different opportunities for negotiation whether at the checkpoint, in local territory or nationally. Access could be through a variety of players; local NGOs, local authorities, through traditional elders, radio, at state level,

or with diaspora and international representatives. Setting clear objectives and goals is also important.

iv) deciding **what to negotiate:** beginning with access for instance and further widening to humanitarian and human rights issues. Attempting to get the local non-state actor to accept their responsibilities to their local people under their control is important. Awareness of what might be achievable is important, as is recognition of what is not negotiable.

v) **how to engage:** different methods of engagement may be appropriate at different levels depending on whether the UN or an NGO is negotiating and depending on the circumstances; for instance for an NGO the degree of confidence they can generate in the minds of the protagonists will be a factor. The ICRC on the other hand has a well-established notion of neutrality, but this still needs to be recognised as such by the local actors. Greater commonality about how to engage would be beneficial, as would negotiating skills training for humanitarian workers.

vi) **what leverage can be used?** The use of carrots (such as constitutional guarantees, immunity from prosecution, economic development) and sticks (shaming, including through the media, sanctions against products or individuals, international criminal court or victims litigation) if applied more consistently could make a real difference.

vii) A **monitoring mechanism** is very important, noting cease-fire violations for instance. Equally important is an **evaluation** of the consequences of engagement and ensuring net benefit, as is responding to changing political situations, eg the Taliban's arrival in Kabul resulted in changing humanitarian needs and disunited humanitarian action when the principles of humanitarian action were pushed to their limits.

viii) what to do **beyond the immediate life-saving;** for many donors balancing the immediate short term humanitarian needs with their longer-term development remit to help create sustainable livelihoods can cause tension. It can also be an advantage for instance offering longer-term economic opportunity to non-state actors, for instance in Colombia to reduce coca production.

ix) **remaining neutral** and not being compromised, or used by a non-state actor as happened in Liberia where Charles Taylor's war machine became "funded" by humanitarian aid; or prolonging conflict in some way.

x) **similarly remaining neutral to deliver assistance whilst exercising political influence to resolve political crises** is a key dilemma for donors, particularly government donors. In the past governments were seen not to be political enough; but becoming more political and interventionist has consequences for their humanitarian work. Donor NGOs are also concerned about playing the piper's tune if their humanitarian work is significantly government funded.

xi) **changing the Humanitarian Law** to make it more applicable to non-state actors could be an option although there is a fear that further development of the law to make it applicable to non-state actors could have negative consequences and become a form of anti-terrorist legislation. Better, it is argued, to prioritise the practical over legal solutions. Greater understanding of the law and principles by all parties however remains crucial. The media can be a useful tool in this area.

7. Additional challenges include:

- how to extend humanitarian principles to non-state actors when the state actors themselves do not adhere to them (e.g. Colombia), or where the local government is providing the majority of humanitarian assistance (e.g. Sri Lanka); or where there is no

state control (e.g. Somalia) or central authority (as in DRC), or where there is no secure situation (e.g. Chechnya).

- Engaging with non-state actors in a post-conflict situation for instance recent experience in East Timor highlighted the lack of prior engagement with armed groups (who were themselves victims). The purpose of humanitarian engagement has changed in this instance to become one of fostering reconciliation and assisting reconstruction. It also highlighted the slowness of funding for development within humanitarian programming. Also in post-conflict reconstruction many of the local NGOs are encouraged to work in the civil service removing their expertise within civil society and therefore with the humanitarian community. Similarly in Somalia where the local non-state political actors have an important role to play in providing basic stability and providing infrastructure and where the challenge becomes one of providing economic alternatives for demobilised militias for instance.

8. With so many humanitarian actors with very different mandates greater consensus within the community on a wide range of issues is needed. The humanitarian community needs to recognise that humanitarian space is much wider than individual agency space. Guidelines may be helpful on engaging with armed groups, but given the very diverse situations common sense is as important, focusing on the process and method together with continuous measured assessment of the success and net benefit of humanitarian support.

The humanitarian community engaging with the corporate sector
9. The corporate sector cannot avoid being involved in conflict in some situations, for instance Sierra Leone. Through lawful business activity or through complicity on corruption and human rights abuses business can fuel instability and conflict; there are 34 conflict areas where multi-national companies are operating. Private companies therefore have a role in conflict and its prevention. Some multi-national companies become proxy governments providing services to their employees and the wider community.

10. The humanitarian community should recognise the role companies can play in both conflict prevention and during conflict and engage with them further, assisting them with conflict impact assessments for instance and jointly encouraging wider dialogue with local communities and governments. Humanitarian agencies need to challenge the private sector to demonstrate the positive benefit of their operations in conflict zones, including to be judged on their human rights policy and should not leave this to the environmental lobby. They should also press corporations to be the international leaders in upholding international standards for human rights and rule of law. Lobbying of companies can be beneficial - eg in Colombia BP/Amoco renegotiated an agreement with the army to incorporate human rights language and establish a code of conduct for its main private security contractor.

11. Many companies start their involvement too late, ending up having to be involved in conflict resolution when preventative steps might have helped. Freeport in Indonesia recognised its earlier mistakes and has now developed a social and human rights policy, training all staff on human rights and creating social programmes to help secure basic human rights amongst the community in Papua where employees are now of very diverse ethnic mix. Its guidelines include giving the needs of local people strong consideration, forming local partnerships (including NGOs and multi-laterals) and setting a goal of eventual empowerment of local people. Such guidelines could be mirrored elsewhere.

12. Creating a partnership between humanitarians and the private sector can be beneficial. Even if at the start it is only with larger multi-national corporations these can

have significant impact on the supply chain, and the first signs of good practice are emerging. For the so-called "bad guys" in the business community a different strategy will be needed.

13. For the private sector, engaging with humanitarians creates challenges of its own; including the need to prepare managers for a conflict prevention role, and assessing whether action taken matches the scale of need. Corporations need commitment at the highest level to include conflict work as a central dimension of core business operations, rather than a humanitarian or philanthropic add-on programme.