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Internally displaced persons collect water, Somalia / Ashley J. Clements

Getting armed groups to the negotiating table

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This brief demonstrates how humanitarian diplomatic tools and practices have become particularly important during humanitarian negotiations with armed groups to foster the conditions required for negotiations to begin, and to provide incentives for armed groups to come to the negotiating table.

Humanitarian actors must increasingly negotiate over access and protection for conflict-affected communities. In so doing, they frequently leverage diplomatic tools and processes to create opportunities for negotiation and to improve the agreements they reach. These activities fall within the emerging concept of humanitarian diplomacy (HD), that is, “persuading decision makers and leaders to act, at all times and in all circumstances, in the interest of vulnerable people and with full respect for fundamental humanitarian principles” (De Lauri 2018). But whilst the importance of HD in shaping the outcome of humanitarian negotiations is now well recognised (Turunen 2020), its role in creating opportunities for negotiation is less understood. This brief demonstrates how humanitarian diplomatic tools and practices have become particularly important during humanitarian negotiations with armed groups to foster the conditions required for negotiations to begin, and to provide incentives for armed groups to come to the negotiating table.

Negotiating with armed groups

Contemporary armed conflict is characterised by an abundance of non-state armed groups who compete with the state or each other for control over people, resources, and territory. The composition, areas of influence, and alliances of these groups tend to be fluid and subject to rapid change. And the internal dynamics within them are regularly opaque, providing limited opportunities for outsiders to develop an understanding of their interests and to identify opportunities for negotiation. Humanitarian actors, diplomats, and mediators must nevertheless engage these groups if they are to succeed in reducing levels of violence, bring an end to the conflict, or provide humanitarian assistance to vulnerable communities.

Before these negotiations can begin, however, opportunities have to be found or created to bring armed groups to the negotiating table – whether literal or figurative. Drawing on a growing body of research on humanitarian negotiations, this brief explores such opportunities. It identifies some of the factors that bring armed groups to the table and suggests ways in which international actors can incentivise them to do so, emphasising the role of humanitarian diplomacy.

Obstacles to negotiation

The negotiating table is the physical place or the figurative space through which bargains and offers are made between parties as they attempt to reach a mutually beneficial agreement. During humanitarian negotiations – a process through which humanitarian actors seek to secure agreement from parties to a conflict for the safe

and principled provision of assistance and protection for civilians facing humanitarian needs (Clements 2020) – this so-called ‘table’ might consist of a barricade at a checkpoint, the desk of de facto authorities, or a radio handset as messages pass between distant interlocutors.

But getting to the point of directly exchanging messages and haggling over the terms of an agreement can take time and skill. International actors routinely face legal and administrative obstacles that prevent or deter them from negotiating with armed groups. Indeed, in some countries, direct negotiations between armed groups and other non-state actors are prohibited by law (Modirzadeh et al., 2011).

Counter-terrorism policies can also undermine that to which humanitarians can agree when negotiating with listed or proscribed terrorist groups. Even groups that are not formally listed may be labelled as terrorists by national authorities in an attempt to undermine their legitimacy and stifle any engagement with them. International actors can also face reputational risks that discourage them from being seen to ‘sit down’ with certain armed groups (Clements 2018).

Reputations among more hard-line and ideologically driven armed groups may similarly dissuade rebel leaders from beginning negotiations with international representatives. Some resist sitting down with their international counterparts as a deliberate tactic to delay negotiations and avoid the costs of rejecting a deal, such as public condemnation or the imposition of sanctions. Armed groups concerned primarily with military and political victories may also see little value in reaching an agreement with humanitarian actors.

Prenegotiation and humanitarian diplomacy

Humanitarian negotiators must therefore create conditions through which armed groups choose to come to the table and negotiate in good faith. This process of ‘prenegotiation’ is a non-linear preparatory phase that is required for negotiations to begin. It both precedes and overlaps with subsequent negotiation phases of bargaining and implementation, typically consisting of establishing trust, setting the agenda, and building the structures through which further negotiation can take place (Gross Stein, 1989). Prenegotiation during humanitarian negotiations typically uses a combination of so-called ‘sticks’ and ‘carrots’ to persuade armed groups of the value they stand to gain if they negotiate, as well as the costs they face if they do not.

Humanitarians also take steps to create conditions that allow them to engage with armed groups. These can consist of building awareness of humanitarian needs to demonstrate the importance of negotiating

over humanitarian access, or may involve rallying the support of influential third parties like UN Security Council members or influential states. These enabling activities may also involve coalition-building, through which diverse humanitarian actors attempt to align their interests and negotiation strategies to strengthen their negotiating position.

For humanitarians, this process of prenegotiation closely aligns with the concept of ‘humanitarian diplomacy.’ Humanitarian actors have increasingly found themselves operating in highly politicised contexts in which even the missions for which they exist are inherently political. In response, UN agencies and NGOs have invested in their ability to navigate these complex operating environments through HD. They advance humanitarian interests by framing the narrative and setting the agenda for the crises in which they work. Humanitarians play a representational role, meeting and negotiating on behalf of their constituents (conflict-affected communities), and shaping the reputations of their counterparts in the process. They use the media, and they lobby political actors to gain support for their mission and the resources needed to deliver assistance (Régnier 2011).

Humanitarian agencies have thus become diplomatic actors for whom humanitarian diplomacy and humanitarian negotiations are key tools through which they deliver on their imperative to save lives and alleviating suffering. The following sections outline some of the positive inducement (‘carrots’) and negative inducement (‘sticks’) they deploy through HD to encourage armed groups to negotiate over humanitarian access and the protection of civilians.

Denunciation

Humanitarians have very few sticks to wield over armed groups to encourage them to come to the negotiating table. But on occasion, the targeted use of denunciation can prove effective. Armed groups that are sensitive to their domestic or international standing may be compelled to modify their behaviour and negotiate when their conduct is publicly condemned. Some groups, like Yemen’s Houthi Movement (the Houthis) and the Kachin Independence Army (KIA) in northern Myanmar committed to demobilise and strengthen their recruitment policies after they were publicly condemned for their recruitment and use of children within their ranks.¹

Other groups have been publicly criticised by humanitarian agencies for obstructing humanitarian access in an attempt to encourage them to resume negotiations. Reports that Hamas was denying access

to aid workers during the 2012 Gaza conflict reportedly added pressure on the group to seek an agreement with humanitarian agencies to facilitate assistance (Gali 2013).

Denunciation, however, is usually perceived by negotiators to undermine trust and reduce prospects for negotiation. To overcome these challenges, humanitarians may instead use third parties to pressure armed groups. The UN Secretary-General’s report on Children and Armed Conflict, for example, allows humanitarian agencies to apply pressure to armed groups without being directly implicated. Similarly, the Security Council is often used as a platform for condemning armed groups for obstructing humanitarian access in a way that minimises harm to the prospects for future negotiation.

The Council also increasingly imposes targeted sanctions on leaders within armed groups accused of obstructing humanitarian access, as in Yemen, South Sudan, and Mali.² These measures – typically consisting of asset freezes, travel restrictions, and arms embargos – are intended, in part, to compel the leadership of these groups to enter into negotiations over access. The impact of being listed, however, is often more reputational than operational. Targeted sanctions may have little direct impact on rebel leaders who do not use bank accounts, rarely travel internationally, or who already have illicit means through which to ensure a steady supply of weapons and ammunitions.

In search of legitimacy

Positive inducements, then, are usually a more effective means of getting armed groups to the negotiating table. The most effective incentive for armed groups usually relates to their need for legitimacy. Many armed groups serve as de facto governments – including Hamas, the KIA, or Afghanistan’s Taliban movement – often overseeing a range of government-like services, such as health or education departments. Others have established comprehensive and resilient sub-national governance structures. These armed groups regularly aspire to hold post-conflict leadership positions, for which they recognise a degree of domestic acceptance and legitimacy is required. This recognition offers opportunities for humanitarian actors looking to operate in areas under the influence of these groups. Indeed, the pursuit of legitimacy is cited time and again by frontline negotiators as the primary reason armed groups come to the table and bargain over access and civilian protection.

The Covid-19 pandemic provided a unique opportunity for a range of armed groups to pursue greater political legitimacy by supporting public health measures and facilitating access for humanitarians. The Taliban,

Lebanon's Hezbollah, and Al-Shebaab in Somalia, among others, appear to have used the pandemic to undermine national authorities and demonstrate their own ability to serve their constituents, often providing access and security guarantees to humanitarian agencies (Clarke 2020 and Jackson 2020).

While international law and policy insist that humanitarian negotiations do not confer legitimacy on armed groups (Mc Hugh and Bessler 2006), practice suggests otherwise. Armed groups regularly pursue legitimacy through humanitarian negotiations or peace talks. And national authorities regularly oppose their involvement in these processes. Indeed, in recognition of the legitimising effects of negotiation, many counterterrorism policymakers reject the viability of negotiating with listed groups entirely (Toros 2008).

The pursuit of legitimacy can also be a two-edged sword. Some armed groups may generate legitimacy simply by sitting down with international representatives, rather than pursuing a negotiated agreement in good faith. Moreover, not all armed groups aspire to broad legitimacy or international acceptance. Some may derive legitimacy by advancing the interests of one particular group over another, whilst other armed groups reject international norms and conduct acts of performative violence against civilians or aid workers specifically to enhance their legitimacy among a narrow set of supporters (Hamond 2008).

Yet even such groups are usually embedded in communities on whose support they depend. Joe Belliveau (formerly working with a medical humanitarian NGO in Somalia), contended that Al-Shebaab was at once internationalist and pan-Islamic, whilst also deeply focused on Somali society. The group's national social reform agenda and its tribal ties offered opportunities for humanitarians to negotiate certain types of activities, he argued. Similarly, some negotiations in Yemen with Al-Qaeda in the Arabian Peninsula achieved success by building on the group's need to be accepted by local communities and tribes (Clements 2020).

Beyond legitimacy

Legitimacy may be the most powerful draw for armed groups, but it is not the only one. Many groups also enter into negotiations with humanitarians in the expectation of services being provided to their constituents that substitute for their own domestic obligations, allowing them to redirect resources elsewhere. Armed groups may also come to the negotiating table with humanitarians when peace agreements demand progress on humanitarian access – often perceived as 'quick wins' that will reduce grievances and build trust between

conflict parties. Finally, opportunistic leaders may enter negotiations in anticipation of opportunities to extract taxes to strengthen their group or divert aid for their own enrichment.

But principled humanitarians must carefully weigh the long-term impacts of negotiated successes that are built on these types of interests. By merging humanitarian and political negotiations or by conceding to illicit taxes, the foundational principles on which humanitarian action is predicated (neutrality, impartiality, and independence) may be compromised. These core principles guide the actions and decisions of humanitarian agencies, protect the credibility and legitimacy of humanitarian activities, and make humanitarians more acceptable negotiation counterparts for armed groups (Rodriguez 2007).

Creating negotiation space

Humanitarian actors also take steps to ensure domestic and international conditions are conducive for them to negotiate openly with armed groups. An example of this are the long-running campaigns against overly restrictive counter-terror policies and legislation that impede legitimate and principled humanitarian action in countries like Afghanistan, Somalia, and Yemen. These policies are argued to decrease humanitarian funding, result in programme delays and suspensions, increase administrative costs, and compromise life-saving interventions (Mackintosh and Duplat, 2013).

At the time of writing in late 2020, the US was reportedly seeking to designate the Houthis as a Foreign Terrorist Organisation. Aid groups began lobbying in public (and presumably also in private) against the move, while demanding that if the designation were to go ahead, timely exemptions would be needed to permit life-saving humanitarian activities to continue. These moves constitute concerted (and often coordinated) attempts by humanitarian actors to create space for negotiations to take place through humanitarian diplomacy.

Conclusion

Both carrots and sticks are available to humanitarian agencies to encourage armed groups to come to the negotiating table and pursue a deal over access or the protection of civilians. But negative inducements are usually best wielded by others to allow humanitarians to build trust with their counterparts and retain their perceived neutrality and impartiality. The most effective incentive for armed groups to negotiate usually relates instead to legitimacy. But careful analysis is needed to ensure these groups enter negotiations in good faith rather than being content to simply appear to negotiate. And opportunities are likely to be scarce for engaging

armed groups that derive their legitimacy by violating international norms. Armed groups may also be compelled to negotiate over their desire for humanitarian assistance to substitute for their own responsibilities. And there may be perceived side-payments in terms of aid diversion, taxation, or political dividends that compel these groups to come to the negotiating table. Each of these, however, introduces both operational and principle-level risks for humanitarian actors that should be considered from the outset of negotiations.

Humanitarian diplomacy is a key tool through which humanitarian agencies get armed groups to the table and create space for negotiations to begin. Humanitarians have thus become diplomatic actors for whom humanitarian diplomacy and humanitarian negotiations are key tools through which they deliver on their imperative to save lives and alleviating suffering. Just as negotiation is central to diplomacy, so too is humanitarian negotiation central to humanitarian diplomacy.

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Notes

- 1 Both groups nevertheless continue to be listed for committing grave violations affecting children. See UN General Assembly, "Children and Armed Conflict: Report of the Secretary-General." 9 June 2020.
- 2 Security Council resolution 2140 (2014); Security Council resolution 2206 (2015); and Security Council resolution 2374 (2017).

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