



Dangerous liaisons?

A historical review of
UNHCR's engagement
with non-state armed
actors

Policy Development and Evaluation Service

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Introduction

1. The actions of non-state armed actors (NSAAs) have received significant attention in recent years, especially with regard to how their presence in the field impacts humanitarian space. Groups such as the Taliban and al-Shabaab are believed to restrict access to populations of concern and contribute to an increasingly insecure operating environment.
2. While violent attacks on humanitarian workers have indeed generated considerable anxiety in recent years,¹ NSAAs are not a new phenomenon, nor are they the only parties responsible for such violence. Rather, they have been a feature to one degree or another in almost all UNHCR operations in recent years.
3. What has certainly evolved is the environment in which UNHCR engages with such groups, both with regard to geo-political factors and in relation to modes of humanitarian coordination. In the context of a more integrated humanitarian and peacebuilding architecture, the degree of autonomy that UNHCR can exercise in its engagement has changed, if not declined. Moreover, the types of NSAAs that pervade the operating environment, as well as how they function, has transformed considerably.
4. Whereas liberation movements and guerrilla outfits motivated by Cold War ideologies dominated the landscape in the 1980s, the NSAAs which have characterized the past two decades have not been associated with the same ideological struggle, and instead vary from fundamentalist insurgents to quasi-sovereign separatists to amateurish rebel groups. The immediate post-Cold War period in particular was plagued by armed conflicts that destabilized entire regions and blurred the lines between state, quasi-state and non-state actors.
5. This report reviews UNHCR's history of engagement with NSAAs over the past 30 years, examining not only how and why such engagement has occurred, but also the ways in which it has been transformed. A secondary objective is to identify and anticipate the factors that explain why NSAAs are frequently identified as the pre-eminent challenge to contemporary humanitarianism.
6. The focus is also deliberately on the operational aspects of engagement with NSAAs. In other words, the topic is explored as an aspect of the broader discussion on shrinking humanitarian space (rather than as a question of asylum or protection space), as well as the challenge of operating in complex environments, both of which are topics which UNHCR's Policy Development and Evaluation Service (PDES) has examined in recent years.
7. The report employs the point of view that as a matter of principle UNHCR should engage all NSAAs where necessary and if possible, with the caveat that individual armed groups in the field may, for different reasons, force UNHCR to make exceptions to that rule. Not only is this consistent with humanitarian doctrine, but also reflective of the realities associated with providing assistance and protection in complex environments where populations of concern are often located in areas outside state control. Several core

¹ Abby Stoddard, Adele Harmer, and Victoria DiDomenico, *Providing Aid in Insecure Environments: Trends in violence against aid workers and the operational response (2009 Update)* (London: Overseas Development Institute, 2009), 1.

observations emerged throughout the review, and are enumerated below, with the chapters of the report more extensively exploring these five themes.

8. First, the overall context of engagement has been altered in various ways, in part because of broad geopolitical factors, but also the mutation of the nature of conflict and the orientation of NSAAs themselves. Whereas there were “rules to the game” in the 1980s, and rebel groups and liberation movements in a bipolar world were perceived to be more predictable and coherent, contemporary NSAAs are nearly impossible to discretely categorize. As a result, in the absence of clear battle lines in fluid conflicts and complex emergencies, engagement is extremely context-specific.

9. Second, the purpose and substance of engagement does not fluctuate as dramatically as the context of the conflict itself, because certain recurring issues are generally at the core of why UNHCR works with NSAAs. Negotiating access and security are typically the first step, although in more hostile environments, the line between these two questions is primarily semantic. Specific protection issues are rarely addressed up front when beginning engagement with NSAAs, however once the fundamental operational parameters are established, and a relationship is developed, it is frequently possible to broach such concerns.

10. Third, NSAAs for their part will sit at the negotiating table for a variety of reasons. Sometimes NSAAs are motivated by their own political objectives or strategic priorities, but also possibly because of how they view UNHCR, particularly if the organization’s presence is seen to impact the conflict. The acquisition of legitimacy is almost invariably a key objective for cooperative NSAAs.

11. Fourth, there is no universal policy on how to engage NSAAs, nor has there historically been a standard method for connecting with rebels, guerrillas or insurgents, however, an increased emphasis on UN coordination and integration has likely made official engagement more consistent. Nonetheless, in almost all cases engagement between UNHCR and NSAAs does occur if not directly then indirectly. Moreover, the development of formalized engagement through UN political or military actors has brought into focus the distinction between official and unofficial communication with NSAAs.

12. Fifth, relationships with NSAAs are invariably delicate, balancing questions of perception and trust, with the fluidity and volatility of complex operating environments. While the host government and individual NSAAs may both hold the power to sever or obstruct UNHCR engagement, the organization itself is also constantly forced to re-evaluate the cost-benefit analysis of operating in areas outside state control. UNHCR’s relationships with NSAAs are challenged not only by issues of insecurity, but questions of diversion of assistance or the compromising of principles. In the cases surveyed for this review, when engagement has collapsed, it was more often a UNHCR decision rather than an outright ban from host states or NSAAs, although those actors do force UNHCR’s hand at times.

13. These themes emerged throughout the course of desk and archival research, as well as interviews with senior UNHCR staff that currently or previously worked in selected environments. Thirteen operations were covered.

14. In certain instances, such as long standing conflicts in Somalia and Afghanistan, the entire history of conflict could not be covered and therefore reflections gathered focused predominantly on recent experiences. Moreover, in countries where multiple sub-national conflicts have required UNHCR attention, sometimes only individual regional crises such as Darfur were examined. This review is therefore fundamentally based on information derived from the reflections of accessible interview subjects, and a complete picture is not possible in each case study. For example, very little reference can be made to earlier phases of the conflict in Somalia, because discussions with UNHCR colleagues concentrated on recent events following the establishment of the Transitional Federal Government (TFG) and the emergence of al-Shabaab.

15. While research in the UNHCR archives was conducted, and in instances such as Cambodia proved beneficial, because engagement with NSAAs has typically been undertaken in the absence of written rules, there exists an unsurprising dearth of comprehensive accounts of engagement with NSAAs. For example, archived situation reports almost exclusively focus on NSAAs as security threats, with the only real exceptions being the instances of official diplomacy, where field staff would actually directly consult with UNHCR Headquarters (HQ).

16. The cases where archival material was most beneficial were El Salvador, Cambodia and Georgia. In Cambodia, the Special Envoy of the High Commissioner's negotiation with the Khmer Rouge, to establish the terms of the repatriation program, was well documented, as was UNHCR's participation in the Quadripartite Agreement on Voluntary Return of Refugees and Displaced in Abkhazia.

17. Secondary sources from independent researchers and academics were also consulted, for a few different purposes. First, such literature was utilized to provide background on the overall trends regarding NSAAs, and humanitarian space and complex emergencies more generally. Second, in order to establish the context of each individual case, secondary sources were also used to prepare for discussions with interviewees with experience in specific countries. And third, such sources complimented the primary research by filling the information gaps that emerged from the interviews, and therefore by extension also served to cross-reference the perspectives of some interviewees.

The changing context of engagement

18. Of the thirteen conflicts explored in this review, five originated during the Cold War. While the civil war in El Salvador and the conflict in Cambodia drew to an end in the early 1990s, violence and displacement has lingered in Colombia, the Philippines and Sri Lanka for two decades. The other eight conflicts have emerged since the end of the Cold War, with Bosnia and Georgia unquestionably connected to the reorganization of Eastern Europe. Other cases have been influenced by 21st century factors, most notably the War on Terror, which for instance shapes all operations in Afghanistan. Engagement with NSAAs in each of the above cases was and/or continues to be strongly framed by the global political context of the day.

19. The African cases explored, however, have not always been explicitly affected by the predominant geopolitical climate, and if anything those operations have been more importantly guided by humanitarian and peacebuilding paradigms. While this has not always been true in Somalia, the conflict in the CAR for example has been almost completely ignored because of its irrelevance to western foreign policies. Moreover, the less geo-politicized operations have also been strongly impacted by the expansion of? UNHCR's mandate involving the protection and assistance of Internally Displaced Persons (IDPs).

20. Interviewees recalled, with a hint of nostalgia, that engagement with NSAAs was more straightforward during the Cold War because there were "rules to the game", and therefore humanitarian organizations understood where the lines were drawn and with whom they were engaging. In a bipolar world, the internal dichotomy between government and opposition simplified matters for UNHCR, even when the geopolitics behind such proxy wars were not straightforward. Nonetheless, in cases such as El Salvador, the political and military stalemate allowed the country to be clearly divided during the civil war.

21. The political challenge of engaging with rebels and liberation movements in the Cold War was also fairly predictable, as UNHCR was often accused of ideologically sympathizing with communist-affiliated NSAAs. While the resultant dangers to security were not negligible, as UNHCR did for example receive death threats from anti-communist death squads in El Salvador, the lessons learned were more easily applied from one context to the next. In recent years, even in conflicts such as Colombia, Sri Lanka and the Philippines, new paradigms have replaced old ones, with NSAAs such as the Revolutionary Armed Forces of Colombia (FARC) increasingly being re-branded as terrorists.²

22. The end of the Cold War ushered in a new epoch of humanitarian intervention, with the conflicts in Bosnia and Georgia epitomizing the challenge of operating within the context of irregular warfare. If the lines were clearly drawn during the Cold War, in the Balkans and the Caucasus the fundamental notion of national boundaries was contested and ambiguous, with ethnic divisions more clearly entrenched than sovereignty. Mary

² Samir Elhawary, "Security for whom? Stabilisation and civilian protection in Colombia," *Disasters* 34 (2010): 15.

Kaldor has identified Bosnia as an example of a “new war”, which draws in elements of both civil and inter-state conflict resulting in a fluid and regional crisis.³

23. The post-Cold War cases therefore posed new problems for UNHCR in terms of how to engage with warring parties when operating in volatile contexts. First, the indiscriminate targeting and deliberate displacement of civilians plagued the wars in the Balkans, Caucasus and the Great Lakes region. As a result, UNHCR struggled to protect and assist populations of concern without giving the impression of impacting or even exacerbating the alleged ethnic cleansing.⁴

24. Second, the types of NSAAs that emerged in these cases were distressingly irregular as well, driven by disparate objectives without the ideological underpinning of the Cold War. Armed elements throughout the Caucasus, including military, paramilitary and non-state forces, were notoriously plagued by a lack of accountability, professionalism, logistics and supplies, as well as prolific alcoholism and extensive cross-fertilization between criminal and military activity.⁵

25. However, if the conflicts of the 1990s were disorganized and irregular, September 11th further amplified the security challenges of operating in complex environments. While discussions on engagement in Afghanistan and Somalia were predictably coloured by the War on Terror and the fact the primary opposition NSAA in both cases are designated terrorist organizations, the same theme applies in regards to Colombia, Darfur, the Philippines, Sri Lanka and even to a lesser extent the DRC and CAR, thanks to the lingering presence of the Lord’s Resistance Army (LRA).

26. The era of the War on Terror has both explicitly and implicitly impacted UNHCR operations. In light of the *Holder v. Humanitarian Law Project* case, which prohibits organizations from providing material assistance that could directly or indirectly support designated terrorist organizations, interviewees noted that UNHCR must be more cautious in engaging with NSAAs or operating within their controlled territory. Interviewees were nonetheless more concerned with the overall trend towards counter-insurgency strategies and integrated missions, which may pull UNHCR away from its image of humanitarian neutrality, independence and impartiality.

The context specificity of NSAAs

27. Applying the aforementioned paradigm shifts to individual contexts is challenging because the actual NSAAs reviewed are extremely heterogeneous. Not only is there no simple definition available, but even typologizing NSAAs, as some scholars have attempted, is a complicated if not futile task. For example, in regards to the Revolutionary United Front (RUF) in Sierra Leone, Abdullah and Muana have argued the following:

The RUF has defied all available typologies on guerrilla movements. It is neither a separatist insurgency rooted in a specific demand... nor a reformist insurgency with a radical agenda superior to the regime it sought to overthrow. Nor does it possess the kind of leadership that would be necessary to designate it as a

³ Mary Kaldor, *New and Old Wars: Organised Violence in a Global Era* (2nded.) (Cambridge: Polity Press, 2007).

⁴ Erin Mooney, “Internal displacement and the conflict in Abkhazia,” *International Journal on Group Rights* 3 (1996): 224.

⁵ Greg Hansen, *Humanitarian Action in the Caucasus: A Guide for Practitioners* (Providence: Thomas J. Watson Institute for International Studies, 1998), 11.

warlord insurgency. The RUF has made history; it is a peculiar guerrilla movement without any significant national following nor ethnic support... it has remained a bandit organization solely driven by the survivalist needs of its predominantly uneducated and alienated battle front and battle commanders.⁶

28. Indeed, the ambiguity of the RUF, most remarkably the absence of a coherent political message and the propensity for committing atrocities, made it easy for international actors to dismiss them as bandits unworthy of engagement. This was true even in 1997 and 1998, when the RUF and the Armed Forces Revolutionary Council (AFRC) controlled the entire country. While the predominant international response was to withdraw to Guinea and wait for the coup to be deposed and the Kabbah government restored, the international non-governmental organizations (NGOs) which remained in the country reported unprecedented access outside Freetown during the military junta period.⁷

29. While the above quotation from Abdullah and Muana mentions certain types of NSAAs, and indeed some of the examples surveyed in this review may befit the definition of a separatist or reformist insurgency, overall UNHCR has engaged with almost any and all types of armed actors. Regardless of how NSAAs are understood, the available typologies offer little instruction for when and why UNHCR opts to engage, because such a wide range of groups have proven capable of controlling significant territory, regardless of the ability to articulate a convincing political message. Indeed, organizations associated with banditry or terrorism, such as the RUF or al-Shabaab, often stand between substantial populations of concern and the provision of UNHCR assistance and protection. Engagement is therefore at least considered and explored in even the most contentious of cases.

30. Conversely, in many of these situations, the favoured state actors have not demonstrated themselves to be more state-like than the opposition forces. This is definitely true in countries where governance is weak, fragmented, collapsed or failed. In Georgia, only a semantic distinction could be drawn between the Georgian state forces and the Abkhaz non-state militia in the early 1990s. While Georgia was a recognized sovereign resisting against Abkhazian secession, in the immediate aftermath of the implosion of the USSR, both parties were equally incapable of assembling a professional army, let alone establishing a stable government. As a result, both sides in Abkhazia were unprofessional, erratic and brutal.

31. In the early 1990s, the most powerful armed actor in western Georgia was arguably the Mkhedrioni, a menacing paramilitary group that terrified UNHCR staff operating in the Zugdidi region. Wearing no uniforms or other identification, the Mkhedrioni were aggressive Georgian nationalists that thrived on the lawlessness and disorder of the moment. On the Abkhaz side, while the official authority behaved as a quasi-state actor in diplomatic negotiations, the militia on the ground was disorganized, unreliable and indistinguishable from the local population unless they were brandishing weapons.

⁶ Ibrahim Abdullah and Patrick Muana, "The Revolutionary United Front of Sierra Leone: A Revolt of the Lumpenproletariat," in *African Guerrillas*, ed. Christopher Clapham (Indianapolis: Indiana University Press, 1998), 191-192.

⁷ Toby Porter, *The Interaction between political and humanitarian action in Sierra Leone, 1995 to 2002* (Geneva: Centre for Humanitarian Dialogue, 2003), 19.

32. The conflict in Georgia also exemplifies the challenge of engaging NSAA whose fighting force is fluid and informal, particularly because unprofessional militias and paramilitary groups dominated the fighting in the early 1990s. Not only were most militiamen not uniformed, but they were also typically volunteers from the community, which made it very difficult to distinguish sympathetic locals from active combatants.

33. When armed actors disappear into the local community, UNHCR will undoubtedly (and likely unknowingly), encounter plain-clothes members of rebel groups, as was the case with National Congress for the Defence of the People (CNDP) in the DRC according to one interviewee. A similar scenario has been described in Afghanistan, where hints and mentions of the Taliban are everywhere and UNHCR likely comes across people with connections to the insurgency by working in rural areas throughout the country. UNHCR will also meet individuals who falsely purport to have links to such networks but instead are simply looking for a favour.

34. The NSAAs that fought in Georgia also epitomized the emerging trans-nationalism of rebel fighters. In the early 1990s, both the Abkhaz and South Ossetian militias relied heavily on expatriate fighters, mostly from Chechnya, to supplement a weak and untrained local base. Similar examples can be found in many post-Cold War cases, of individual fighters or even entire paramilitary groups being co-opted to bear arms in opposition to a government other than their own. While in some instances, an NSAA will deliberately recruit or procure support from outside the country, which in Afghanistan has resulted in a more skilled and radical force;⁸ expatriate fighters are also regularly drawn in as a consequence of regional alliances between states and/or non-state entities, as well as the spillover of conflict.

35. The best example was in the Great Lakes crisis, where Rwandan and Ugandan rebels have served repeatedly as proxy fighters in the various Congolese wars, at different times fighting both for and against the Kinshasa government. While the Rwandan interahamwe originally became embroiled in the politics of the DRC because the enemy of their enemy in Kigali subsequently became their friend, over time the paramilitary group's activity outside Rwanda has arguably become more motivated by financial gain and organizational survival.

36. Nowhere were the implications of 'new wars' and inter-state NSAAs more evident than in Sierra Leone, where Charles Taylor's National Patriotic Front of Liberia (NPFL) allegedly supported the RUF. On the other hand, the Kabbah government was forced to rely heavily on the Kamajors, a group of traditional hunters from the Mende ethnic group, as well as Economic Community of West African States Monitoring Group (ECOMOG) troops, after the coup took place in 1997. However, the conflict in Sierra Leone was so messy, and allegiances so ambiguous, locals coined the term 'sobels', because they were unable to distinguish between the soldiers and the rebels.⁹ When communities were raided under the cover of darkness, villagers were unsure whether the perpetrators were the RUF, or whether the soldiers were attempting to frame the rebels for the atrocities. Humanitarian officials on the ground were likewise confused, and when interviewed by one researcher, responded by asking, "Who are the RUF anyway?"¹⁰

⁸ David Rohde, "Foreign fighters of harsher bent bolster Taliban," *The New York Times*, October 30, 2007.

⁹ Marc Sommers, *The Dynamics of Coordination* (Providence: Thomas J. Watson Jr. Institute for International Studies, 2000), 13.

¹⁰Sommers, 13.

37. Finally, the lack of organizational stability within NSAAs has posed a further challenge in many contemporary conflicts, both in terms of identifying interlocutors and maintaining contacts, and also applying operational lessons from one context to the next. For one thing, NSAAs tend to splinter and divide, which can result in multiple factions fighting on the same side of a conflict.

38. One such example is Darfur, where the two original NSAAs, the Justice and Equality Movement (JEM), and the Sudan Liberation Army (SLA), have each produced multiple offshoots over the years. Even the SLA's two most powerful factions, those of Abdul-Wahid (SLA-AW) and MinniMinawi (SLA-MM) have each spawned several sub-splinters.¹¹ The same phenomenon has characterized the wars in the DRC as well, where core paramilitary groups such as the Movement for the Liberation of the Congo (MLC) and the Rally for Congolese Democracy (RCD) have both given birth to numerous factions and affiliates over the years.

39. Factional divisions have been a feature of most conflicts, and while splintering can sometimes be a consequence of instability, well-established NSAAs with coherent political agendas also occasionally split, particularly when leaders disagree on the direction of a peace process. For example, when the Moro National Liberation Front (MNLF) in the Philippines, founded in 1969 with the objective of achieving complete independence for the Bangsamoro Land, accepted an offer of semi-autonomy from the government in 1977, several commanders broke away and formed the Moro Islamic Liberation Front (MILF).¹² The even more extreme Abu Sayyaf Group (ASG) also emerged in the early 1990s, drawing on hard-line dissidents from both groups.¹³

40. Perhaps even more challenging are the contemporary insurgency movements, where the core NSAA does not necessarily produce clearly defined factions, but rather tenuously connected hubs of authority which remain broadly linked under the umbrella of a single title. Interviewees asserted that the above characterization befits the "Taliban" in 2011, despite media depictions and political rhetoric that simplify the insurgency and wrongfully suggest it stands united. Rather, in Afghanistan there now exist a plethora of more localized or regionalized groups, and formal or informal engagement therefore could not be centralized through individual Taliban interlocutors. With the playing field so flooded with armed actors, UNHCR has on numerous occasions been unable to properly vet the credentials of potential interlocutors, as local contacts will misrepresent themselves to convince humanitarian organizations that they are useful intermediaries.

41. In sum, within individual conflicts there often exist multiple NSAAs, each with a distinct profile but nonetheless contributing to the same challenge of access and security. While in certain protracted cases, such as Colombia and the Philippines, the FARC and MILF have not always owned a monopoly on armed opposition, compared to the fluidity of Darfur, Somalia or Afghanistan, engagement in those countries was arguably more straightforward.

¹¹ "The Sudan Human Security Baseline Assessment Project," Small Arms Survey, accessed December 8, 2011, <http://www.smallarmssurveysudan.org>.

¹²Soliman M. Santos, Jr. and Paz Verdades M. Santos, "Moro Islamic Liberation Front and its Bangsamoro Islamic Armed Forces (MILF-BIAF)," in *Primed and Purposeful: Armed Groups and Human Security Efforts in the Philippines*, ed. Diana Rodriguez (Geneva: Small Arms Survey, 2010): 344.

¹³Soliman M. Santos, Jr. and Octavio A. Dinampo, "Abu Sayyaf Reloaded: Rebels, Agents, Bandits, Terrorists (Case Study)," in *Primed and Purposeful: Armed Groups and Human Security Efforts in the Philippines*, ed. Diana Rodriguez (Geneva: Small Arms Survey, 2010), 117.

Engagement and UNHCR

42. Engagement with NSAAs, in theory, occurs primarily as a means of acquiring access to a territory within a conflicted country and a population of concern outside the reach of the official government. However, the way in which the notion of 'access' has been translated in practice has both evolved over time and varied dramatically by context. Several points of analysis emerged regarding why UNHCR will engage NSAAs.

43. First, in several instances, most notably complex emergencies such as Somalia and Afghanistan, access has become synonymous with safety, and engagement with NSAAs therefore is determined by questions of security as much or more than an assessment of needs. Second, engagement can either occur for diplomatic reasons, such as to negotiate an official repatriation program, or simply on a more day-to-day basis. The latter may either be routine tasks, such as crossing rebel checkpoints, or emergencies, such as negotiating the release of hostages. And third, interviewees noted that more substantive protection issues are usually treated as a secondary objective when engaging NSAAs. Establishing a relationship and a degree of trust between UNHCR and NSAAs was typically identified as a prerequisite to discussing, for example, human rights abuses, international legal norms or sexual and gender based violence (SGBV).

Security and access

44. In recent years, concerns about operational security have regularly driven discussions on humanitarian space, because in cases such as Somalia, Afghanistan and Darfur, the threat of attack has become a constant source of anxiety that affects almost all aspects of UNHCR's work. In each of these contexts, engagement is therefore frequently centred around ensuring the safety of UNHCR staff, both as they move throughout the country and while they work on a daily basis. In fact, one interviewee commented that in Afghanistan, security is in fact the only reason why UNHCR would make the effort to engage with the insurgents.

45. The degree of insecurity differs dramatically by context, and whereas in isolated situations humanitarians, including UNHCR staff, may be specifically targeted, more often the safety concerns are more general and indiscriminate. Even in Darfur, where the threat of hijacking was the primary security challenge emanating from the prevalence of NSAAs the objective for most rebels was likely the acquisition of vehicles and other assets. Interviewees did not believe that the intimidation or manipulation of UNHCR staff was the true intent of hijackings, and a security protocol calling for transportation by minibus rather than 4x4 vehicles was designed with that assessment in mind.

46. Many of the most challenging armed actors in fact groups which more heavily towards criminality, with whom engagement is undesirable or impossible, rather than political-military groups controlling or defending territory. For example in the CAR, the two major security threats are the LRA and the *zaraguinas*. The former are an ostensibly Uganda NSAA which use the ungoverned forests of southeastern CAR as a hideout, and periodically raid local communities and therefore deter humanitarian organizations from operating in that area. The latter are highwaymen, sometimes with abstruse links to established rebel groups, and roam the main roads with impunity in search of a quick

payday. Both armed groups illustrate the challenge of operating amid a plethora of armed actors, and in weak or failed states where pervasive lawlessness has blurred the lines between criminality and war.

47. Unfortunately, in the most challenging environments such as Somalia and Afghanistan, the security assurances acquired through negotiation are often unreliable. Even if trustworthy interlocutors are identified, the leadership of groups such as al-Shabaab and the Taliban often cannot command the necessary discipline over the armed actors which operate within the territory they control, whether they are affiliated or not. Therefore, while safe passage for a convoy or stability within an individual camp can often be acquired, and pockets of security established, acceptance is never a stand-alone strategy and UNHCR inevitably relies on deterrence and protection when territorial authority is deeply fractured.¹⁴ Moreover, security is often something that needs to be regularly re-negotiated with NSAAs, particularly if the leadership changes or groups splinter.

Diplomacy and repatriation

48. While the day-to-day issues of access and security are routinely the original purpose of engagement, UNHCR has also worked with NSAAs to initiate and manage repatriation programs. In most of the more historical cases, such as Cambodia, Sri Lanka, Georgia and El Salvador, repatriation has drawn UNHCR into negotiations with NSAAs. While such discussions typically take place in the field, UNHCR has also sat down at the table with NSAAs in both Geneva and New York as well.

49. When such negotiations have occurred on the ground, UNHCR's engagement has often taken place behind enemy lines, providing senior staff with unprecedented access under the cover of diplomacy. The most famous example was in Cambodia, where UNHCR's Special Envoy of the High Commissioner negotiated with the Khmer Rouge the return of Cambodian refugees from Thailand.¹⁵ Viewed in the early 1990s as one of UNHCR's most successful and well-organized repatriation efforts, the program depended on the Special Envoy's negotiations with Khmer Rouge leadership at their base across the border in Thailand.

50. The challenge in Cambodia was similar to the situation in El Salvador, where camps outside the country of conflict (Thailand and Honduras respectively) were controlled by NSAAs that had established their operational base in exile. As a result, in both instances, unlocking repatriation was contingent on convincing the Khmer Rouge and the Farabundo Marti National Liberation Front (FMLN) to release the camps from their grips. However, a peace process is sometimes a necessary prerequisite for such diplomatic engagements, which in El Salvador explains why UNHCR struggled with the potential for the mass return of refugees from Honduras to be caught up in wartime diplomacy.

51. The absence of a resolution to the conflict in Georgia is ultimately what not only prevented the successful return of IDPs to Abkhazia, but also placed UNHCR in a precarious political situation when the repatriation process faltered. In 1994, with UNHCR designated as the UN's lead agency, the organization signed the Quadripartite Agreement with Russian, Georgian and Abkhazian authorities, and throughout the year participated in

¹⁴ For more on the 'security triangle' paradigm of protection, deterrence, and acceptance, please see: Koenraad Van Brabant, *Operational Security Management in Violent Environments: A Field Manual for Aid Agencies*, Good Practice Review 9 (London: Humanitarian Practice Network, 2000).

¹⁵ Samantha Power, *Chasing the Flame: One Man's Fight to Save the World* (London: Penguin Books Ltd., 2008).

the Quadripartite Commission as a go-between for the warring parties. The repatriation initiative aimed at reversing the impact of alleged ethnic cleansing began to collapse as a result of diplomatic manoeuvring by the other three actors, at which point UNHCR staff astutely recognized that each party would likely search for a scapegoat. Cognizant of the organization's vulnerable position, UNHCR opted to abandon the repatriation process and subsequently withdrew from Abkhazia entirely at the end of 1994.

52. The case in Georgia illustrates that when UNHCR has a comparative advantage politically over other aid agencies, the organization can quite easily be drawn into other diplomatic aspects of the conflict, even when key extensions of the UNHCR mandate such as repatriation are not at issue. In Sri Lanka, UNHCR passed messages between the Government and the Liberation Tigers of Tamil Eelam (LTTE), including when the High Commissioner visited in 2006. Likewise in the CAR, UNHCR currently acts as an intermediary not with the expectation of brokering a peace, but because the government does not maintain a direct channel of communication with the rebels.

53. UNHCR, much like the International Committee of the Red Cross (ICRC) at times, therefore can become involved politically simply by having access to territories outside of state control. In short, with access comes responsibility and power, and UNHCR can serve as an interlocutor for state and non-state actors in official engagement, for the same reason as local leaders contacts can facilitate informal communication for humanitarian organizations.

54. Although the specific mandate of UNHCR may provide it with a comparative advantage among humanitarian organizations, the individual relationships of staff on the ground are also extremely important. While local staff are predictably utilized to broker links with interlocutors in many contexts, interviewees also noted that the personal relationships of international staff can be pivotal as well. On a couple of occasions, Representatives have exploited friendships and contacts from previous deployments or visits, as a springboard to contemporary engagement with NSAAs. That staff often build on old networks underscores the benefit of having senior staff with related experience and knowledge.

55. While diplomatic engagement is most commonly centred on repatriation, UNHCR also engages with NSAAs at the negotiating table on broader peacebuilding initiatives, particularly where the agency plays a prominent role within an integrated mission. For example, UNHCR has encountered JEM and several SLM rebel groups from Darfur in meetings at the Centre for Humanitarian Dialogue and the Geneva Call. JEM has most notably made considerable efforts to avail themselves to humanitarians (or at least give the impression of doing so). Their designated Secretary for Humanitarian Affairs, Mr. Suleiman Jamous actually used the Geneva Call conference as an opportunity to reiterate JEM's commitment to international standards on the protection of IDPs, despite an admission that organizational discipline remains a problem.¹⁶

¹⁶ Geneva Call, *Armed Non-State Actors and the Protection of Internally Displaced People* (Geneva: Geneva Call and the Internal Displacement Monitoring Centre of the Norwegian Refugee Council, June 2011): 13.

Protection concerns and relationship building

56. Indeed NSAA discipline and ignorance often inhibit engagement on issues more complex than security and access, particularly in contexts where the poor and uneducated constitute the bulk of the belligerents. For example, an International Rescue Committee (IRC) investigation commented that the rank and file of the People's Army for the Restoration of Democracy (APRD), the largest rebel group in the CAR, were oblivious to the existence of international law. Until IRC conducted a legal training workshop with the rebels, most were unaware that they could be punished for war crimes by an international court.¹⁷

57. Compounding the challenge of working with uneducated interlocutors, many of these NSAAs lack the organizational structure to be reliable, especially as factions splinter and/or operate independently of each other. For example, on one hand the APRD faction that controls the Northwest of CAR is notorious for allegedly violating human rights, blockading roads and taxing civilians. On the other hand, the faction in the North has earned a reputation for discipline and respect, and even for supporting aid organizations operating in the Kabo IDP camp.¹⁸

58. Most interviewees confirmed that topics such as human rights, and protection matters in general, are almost invariably relegated to second billing until the basic operational parameters are established. Without a working relationship built on mutual trust and an understanding of UNHCR's mandate, the space to broach protection concerns with NSAAs is typically quite limited.

59. In protracted conflicts where open combat only occurs sporadically, UNHCR has been able to move to the second step of engagement. For example in Sri Lanka, UNHCR was able to discuss the recruitment of child soldiers with the LTTE. In Darfur, with the assistance of the Centre for Humanitarian Dialogue, several potential human rights concerns have been explored with JEM, and to a lesser extent other NSAAs. Even in the CAR, UNHCR has observed modest success broaching protection concerns with the more reasonable and knowledgeable rebels.

60. On the other hand, in complex emergencies, where UNHCR even struggles to access populations of concern, the story is understandably different. For example in Somalia, while UNHCR has moderate monitoring capacity and is aware of protection needs and human rights violations, the organization has yet to be able to bring those issues to the table. While UNHCR interviewees believe that certain moderate al-Shabaab commanders may indeed be sympathetic to humanitarian concerns based on a sincere understanding of local suffering, the current political and security situation unfortunately likely renders it unrealistic to expect a stable relationship to be built with such individual actors. Unfortunately, the only actor with whom UNHCR could raise protection questions would be the TFG, which in reality has minimal relevance and influence outside Mogadishu.

61. Nonetheless, even where access and security are a challenge, some effort at engagement and relationship building is arguably better than none at all, with the

¹⁷ Peter Biro, "Rebel Training: Introducing human rights in war-torn Central African Republic," *The IRC Blog*, July 29 2010. Accessed December 8, 2011, <http://www.rescue.org/blog/rebel-training-introducing-human-rights-war-torn-central-african-republic>.

¹⁸ Steven Spittaels and Filip Hilgert, *Mapping Conflict Motives: Central African Republic* (Antwerp: International Peace Information Service, February 2009), 37.

assumption that it is always in UNHCR's interest to project a principled stance in an emergency. The case of Sierra Leone provides a cautionary example of how explicitly disengaging and turning your back on NSAAs assumes considerable long-term risk. While UN political actors viewed the RUF as illegitimate, and exploited that assessment to validate the withdrawal to Conakry during the coup period, the decision to play favourites compromised future engagement.

62. While the government did return to power in 1998, the rebels were not defeated for several more years, and continued to control most of Sierra Leone into the 2000s. Unfortunately for Sierra Leoneans, as well as many Liberian IDPs, the decision by the UN to remote control operations from Conakry had permanently damaged the ability of humanitarian organizations to present a neutral, impartial and independent image.

63. The UNHCR archives on the conflict offer concrete documentation of how humanitarian officials were confronted with this consequence in 1999, while a temporary ceasefire was in effect. When a UN humanitarian access mission in July arrived in the Kailahun district in north-eastern Sierra Leone, a region that had been cut off for years, a senior RUF commander offered a stunning analysis of the damaged relationship between humanitarians and the rebels.

64. Speaking to the UN Humanitarian Coordinator (HC) and the UNHCR Representative, the commander criticized the Conakry withdrawal and the decision not to provide assistance through the RUF-AFRC military junta. Furthermore, the commander asserted that such an apparently political statement also undermined the RUF's ability to trust humanitarian organizations, including those such as ICRC that remained in Sierra Leone throughout 1997 and 1998. The RUF Commander even suggested that by taking the government's side during the coup, and afterwards only targeting government-controlled towns, the UN may have in fact prolonged the war.¹⁹

65. While the archival material was somewhat unclear on UNHCR's influence over and involvement in the decision making process in Sierra Leone, the broader impact on the perception of humanitarian organizations was quite explicit. Much of the secondary literature analysing the international involvement in Sierra Leone is remarkably critical, specifically because UN actors, especially the United Nations Development Programme (UNDP), quite openly favoured the Kabbah government for personal and political reasons.²⁰ However, because relationships with NSAAs rarely operate in a vacuum, UNHCR engagement would also have been impacted by such negative perceptions overall, even if rebels can distinguish between the colouring of the letters on the trucks. The consequence in Sierra Leone was that the RUF became extremely suspicious of all international actors, including UNHCR and ICRC.²¹

66. In short, while the RUF bore a certain resemblance to other quasi-bandit NSAAs such as the LRA, which continues to commit atrocities today, the rebels were also powerful politically and relevant to humanitarians, both in terms of their extensive territorial control and brutal tactics. In a messy conflict, where all sides have been proven guilty of egregious violations of human rights, the decision of why or why not to engage the RUF was clearly a turning point in the efforts to provide humanitarian assistance and protection in Sierra Leone.

¹⁹UNHCR Archives.

²⁰Sommers, 33.

²¹UNHCR Archives.

Engagement and NSAAs

67. The case of Sierra Leone mirrors certain aspects of the contemporary debate on if, when, and how to engage with al-Shabaab in Somalia. In both instances, international political and military actors have explicitly supported a weak and corrupt host government, however the often abhorrent tactics of the insurgents have also helped validate the taking of sides.

68. While almost all parties to the conflict in Sierra Leone were alleged to have committed atrocities, including the recruitment of child soldiers and the hacking of limbs, the RUF utilized such methods extensively and strategically. The RUF's reputation for indiscriminate brutality allowed the powerful rebel group to be easily dismissed as bandits without a coherent political agenda, similar to how al-Shabaab is typically described as a quasi-terrorist group. While al-Shabaab's alleged ties to al-Qaeda are frequently advertised as evidence of their radicalism, far less attention has been given to scrutinizing the command structure and internal logic of the insurgency in Somalia. Although it has become increasingly evident that within al-Shabaab there are both soft line and hard line commanders, with moderate factions more open to humanitarian assistance,²² has UNHCR been able to capitalize on this nuanced reality?

69. This section explores some of the reasons NSAAs will engage with UNHCR, and underlines why it is crucial for the organization to invest in such analysis on the ground. What this section does not intend to argue is that UNHCR staff should view all NSAAs as freedom fighters, nor that a moral relativist approach is necessary in order to uphold humanitarian principles when engaging with controversial armed groups. Both the primary and secondary research demonstrates that for UNHCR to engage safely and effectively with prominent NSAAs, the negotiating partner's rationale must be understood.

70. While the research certainly did not uncover any examples of where UNHCR staff have ever failed to conduct such analysis, a couple of highly experienced interviewees insisted that the ability to effectively diagnose the actions and comprehend the demands of NSAAs is a skill which junior staff often do not yet possess. In other words, the ability to conduct an objective and comprehensive context analysis not only of the conflict but the armed actors as well requires significant field experience. Sincere concern was expressed that UNHCR as an organization has lost some of its operational and political savvy over the years, and that engagement with NSAAs could be hindered by such inexperience.

71. The RUF can be offered as Exhibit A of an NSAA that was widely misunderstood and dismissed, but in fact had a method to their madness. Researchers have asserted that, "counter to perceptions of RUF as sadistic hooligans, over the course of the war, they [RUF] became, quite simply, one of the best guerrilla outfits in the world,"²³ and that their atrocious tactics were nonetheless a deliberate tactic fundamental to a broader strategy of territorial dominance. Not only did Foday Sankoh and other RUF commanders bolster their force's strength by recruiting children as fighters and forced labourers, but they also determined that control of the land and its resources was both more important than broad public support, and more easily accomplished with a population that was displaced and/or

²² Mike Pflanz, "Al-Shabaab rebels withdraw from Somali capital," *The Telegraph*, August 6, 2011.

²³Sommers, 10.

scared. The trade-off for the rebels was that while their repugnant military strategy allowed them to amass substantial political power in Sierra Leone for over a decade, it also “prevented the RUF from building a popular base.”²⁴

72. While most NSAAs are assumed to engage with UNHCR and other humanitarian actors in an effort to derive legitimacy, interviewees noted that this was often merely the tip of the iceberg, even when the NSAA failed to articulate a coherent political agenda. Indeed, while not all rebel groups will communicate clear objectives, those that study NSAAs stress that even the worst of the worst, such as the LRA, have typically developed at least a general internal ideology and organizational structure, deluded or dysfunctional as it may appear to outsiders.²⁵

73. Two types of motivations or concerns were identified for why NSAAs will engage with UNHCR, those that are rooted in the NSAA’s own campaign, and those that are a reaction to UNHCR’s presence. In between these two points of view is always the question of legitimacy, which almost all NSAAs seek to acquire to some degree, and which UNHCR like other humanitarian organizations are perceived to convey.

NSAA-specific factors

74. While interviewees and researchers alike have emphasized that UNHCR cannot *de jure* legitimize an NSAA, in practice legitimacy is almost invariably an element. Nonetheless, not only do most NSAAs view negotiation and cooperation with humanitarians as a means of acquiring legitimacy, but host governments also frequently express the same concern, that rebels and insurgents are not as easily marginalized and defeated if UNHCR and other humanitarians are working with them. While the conferring of legitimacy may be a common theme throughout contexts, it can also have multiple dimensions, international, national or local.

75. On one hand, when engagement happens with a diplomatic purpose, such as in Cambodia, the Khmer Rouge viewed cooperation with UNHCR as a means to acquiring greater influence over the direction of the UNTAC peacekeeping mission. The Special Envoy of the High Commissioner’s discussions with Khmer Rouge leadership therefore concerned the terms of Vietnamese troop withdrawal, with the rebels pushing for terms that would satisfy their own strategic considerations.

76. On the other hand, many of the more Cold War-era NSAAs, including the MILF in the Philippines and LTTE in Sri Lanka, were described by interviewees as primarily focused on how engagement with UNHCR could improve their standing in the eyes of the local population. In Colombia, the UNHCR’s Protection through Presence Programmes (PPP) were appreciated by rebel groups that sought to be viewed by affected communities as providers or facilitators of tangible and concrete development initiatives.

77. Interviewees and researchers suggest that the latter point also explains why even fundamentalist insurgents may be willing to cooperate with UNHCR, because NSAA that purport to represent a defined constituency likely maintain a vested interest in the assistance and protection of that population. To advance this point, the *To Stay and Deliver* report contrasts a global insurgency such as al-Qaeda, with the Taliban and al-Shabaab,

²⁴Sommers, 10.

²⁵ This point was particularly emphasized in discussions with Dr. Olivier Bangerter, the former ICRC Advisor for Dialogue with Armed Groups.

asserting that, “as local opposition forces gain ground and start to consolidate control over certain areas, paradoxically the humanitarians’ prospect for negotiating secure access in these areas becomes increasingly possible.”²⁶

78. Interviewees were divided on whether UNHCR’s experience in Afghanistan and Somalia supports the above hypothesis. While neither al-Shabaab nor the Taliban are unified insurgencies, a couple of interviewees believed that the leaders of both groups were fundamentally unconcerned with the plight of the local population. Rather, they might only draw on the rhetoric of popular suffering for the sake of propaganda.

79. While the acquisition of legitimacy can conform to any strategy, not all rebel groups envisage themselves as a political alternative to the established government, nor are all actively fighting for power. For example, in the CAR where the predominant NSAAs were described as advancing a “kind rebellion”, driven to take arms by endemic poverty, state weakness and neglect, rebel leaders provide UNHCR with access because they recognize that the local population requires international assistance. As a result, engagement with the APRD or the Union of Democratic Forces for Unity (UFDR) is not contentious because both sides concur on the needs of the population and the rebels appreciate that, like the CAR government, they are not viable providers either.

80. Amateurish NSAAs with poor internal capacity and troop strength may also be motivated to work with international actors if they are concerned about impending attack. Interviewees noted that weak and vulnerable NSAAs might be willing to allow UNHCR and other humanitarian agencies access, and even encourage the establishment of stable operations, as a means of sheltering themselves and deterring attack by government forces. The UNHCR can therefore provide protection through its presence not only for the population of concern, but by extension for the NSAAs themselves as well.

UNHCR-specific factors

81. While several of the aforementioned issues are common to many humanitarian organizations, UNHCR’s mandate has also created unique challenges and provoked particular responses from certain NSAAs in the field. Whereas questions of access, security, peacebuilding and diplomacy typically involve and impact a variety of international actors, facets of UNHCR’s work such as repatriation, camp management and registration are also of concern to NSAAs.

82. First, negotiating a repatriation program is always a sensitive political challenge, particularly when non-state or quasi-state actors have allegedly pushed a campaign of ethnic cleansing. In the Georgian case, while the Quadripartite Commission negotiated an extremely comprehensive repatriation program, the Abkhaz subsequently blocked UNHCR’s implementation of the agreement. Abkhaz leadership had signed onto the repatriation program under diplomatic pressure, but remained concerned that widespread return would reverse the effects of displacement, and therefore restore an ethnic Georgian majority in the breakaway republic.²⁷

²⁶ Jan Egeland, Adele Harmer and Abby Stoddard, *To Stay and Deliver: Good practice for humanitarians in complex environments* (New York: Office for the Coordination of Humanitarian Affairs, 2011), 12.

²⁷Mooney, 213.

83. Second, NSAAs frequently challenge UNHCR's ability to manage IDP and refugee camps through their attempts to use them as a base for rest and recuperation, if not the active recruitment of fighters. Many interviewees recalled having to confront NSAAs regarding such classic protection issues. In fact, this phenomenon has become a constant preoccupation in many African contexts, obliging UNHCR to directly but discretely criticize rebel leaders, with varying degrees of success in part determined by the nature of the relationship between the NSAA and UNHCR.

84. Camp management can also be undermined more subversively by the reconstitution of community hierarchies and the mixing of leaders and rebels within camp power structures. Refugee leaders often attempt to re-establish ethnic or regional divisions and power hierarchies within the camps, which makes identification of reliable interlocutors a difficult task.

85. Third, and arguably most intriguingly, the practice of registration was flagged by one interviewee as a frequently ignored issue that can cause significant friction with NSAAs, sometimes unbeknownst to the UNHCR representation on the ground. While registration may be viewed by UNHCR as an innocuous programmatic necessity, in a conflict where the hostile parties disagree on certain details related to the local population, registration figures inject a potentially controversial piece of information into the rhetoric of war.

86. For one thing, many host governments lack the capacity to conduct a reliable census of contested regions, if not the country as a whole. Moreover, many NSAAs that situate their insurgency within the context of a struggle where they are a minority nationally and/or a majority regionally, are therefore fundamentally concerned with how the local population is defined statistically because it could either corroborate or contradict the narrative they seek to advance. As a result, UNHCR may in fact be the only actor with valid population data, which could place the organization in between the propaganda of each side.

87. This can be remarkably contentious when a powerful NSAA represents a religious or ethnic group that does not constitute the majority in the region, as has historically been the case in Mindanao and Abkhazia. These sovereignty movements nonetheless strive for autonomy or independence from the state in spite of a lack of local homogeneity. The registration issue therefore reinforces the need for UNHCR field staff to analyze and respect the motives and rhetoric of NSAAs, even if they may be ambiguous or not explicitly related to displacement.

88. While the need to comprehend NSAAs may seem like an obvious process, the research for this review illustrated that utilizing common sense to undertake such analysis is not necessarily adequate in itself. For example, the information offered by certain interviewees, particularly regarding the characterization of complex NSAAs, was sometimes contradicted by other primary and secondary accounts. While this could potentially occur when a conflict evolves over time, what is equally plausible but also rather sobering is the possibility that not every assessment made on the ground is equally objective and thorough.

How engagement occurs

89. There is no universal UNHCR policy on how to engage NSAAs. In fact, most interviewees commented that even ad hoc direction from the HQ was rare, and reserved only for the most politically sensitive and diplomatically important issues. While a couple of Representatives commented that they had been explicitly granted the authority to engage on behalf of UNHCR, most responded that as an operational necessity, negotiating with NSAAs was governed principally by the initiative and common sense of the staff on the ground. Very few interviewees were convinced that additional policies, structures or support from HQ would positively enhance their capacity in this regard.

90. There has however been a subtle shift over time, as the senior management, primarily the High Commissioner's office, has apparently become less directly involved in official negotiations over time. For example, when UNHCR was the lead agency in Bosnia, responsible for feeding millions of people, the High Commissioner sat down the Serb, Croat and Bosniak leaders in her office and pushed each party to sign an agreement opening up supply routes before winter struck affected communities. The meeting was not a courtesy call; at one point the High Commissioner threatened to withdraw from Bosnia entirely if the three sides refused to cooperate.

91. To a certain extent the same degree of seventh floor involvement was noted in El Salvador and Cambodia, although this was still on a case-by-case basis. On one hand, the High Commissioner explicitly forbid official contacts with the FMLN guerrillas in El Salvador in the mid-1980s.²⁸ On the other hand, not only did the Special Envoy of the High Commissioner lead the diplomatic efforts with the Khmer Rouge in Cambodia, but his extensive communication with the High Commissioner throughout the process is also well documented in the archives.²⁹

92. There was rarely the same mention of senior level involvement in more recent individual operations. Rather, the burden of responsibility appears to be far more decentralized, with the method and approach to engagement guided by either the UNHCR Representative or increasingly in complex emergencies the UN HC.

UNHCR and communication with NSAAs

93. One recurring point throughout the interview process was that when informal or ad hoc engagement occurs with NSAAs, particularly when it pertains to access and security, the success of such engagement largely depends on the connections of either the senior or local staff. While the latter are frequently the ones engineering such contacts, several Representatives also added that their own personal relationships have also greatly enhanced the organization's engagement.

94. The use of local staff to facilitate engagement is generally controversial, doubly so when there is an ethnic, tribal or religious dimension to the conflict. On one hand, local staff can sometimes be relied upon quite heavily to broker relationships and groom key

²⁸UNHCR Archives.

²⁹UNHCR Archives.

interlocutors, particularly if they are well connected socially. On the other hand, local staff may also be kept safely away from the entire process, perhaps because of issues of trust and bias, but also out of concern for their safety.

95. Interviewees described the identification of local interlocutors as a very context-specific exercise, with the degree of participation from senior field staff serving as a crucial variable. In the more historical case studies, where engagement was frequently at a diplomatic level, UNHCR engaged primarily with NSAA leadership through direct channels, especially if organizations had distinct military and political wings.

96. Conversely, multiple interviewees commented that contact with an NSAA could often be established simply by planting the seed with soldiers on the ground, because word inevitably trickles up the chain of command. This scenario is usually applicable in the African cases surveyed, presumably because such rebel movements often have fluid communication structures. As a result, while ground level engagement is often the point of departure for UNHCR, the objective remains to work up to an exchange of telephone numbers, allowing a Representative to essentially have their NSAA counterpart on speed dial.

97. Where senior staff brought with them or developed their own personal contacts, which they were able to draw upon to build professional relationships, much of the earlier steps could be fast-tracked. Experienced Representatives utilized old friends from previous missions or operations in the country, as a means to meeting local powerbrokers and eventually accessing NSAA leaders. Interviewees also recounted anecdotes where they had come across rebel commanders at parties and other social events in the field, which helped UNHCR network their way to stronger relationships with NSAAs. Overall, UNHCR has been able to carve out a comparative advantage in terms of its engagement with NSAAs when international staff are able to be a catalyst in the process.

98. Skilled and connected local staff are often expected to open the door as well, albeit based on a different methodology, and with an altered set of associated risks. For one thing, there is a tension between engaging through local staff in an effort to access interlocutors and affected populations that otherwise would be out of reach, and the possibility that handing over too much autonomy to that will result in a loss of control for UNHCR. The World Food Programme (WFP) quite publicly encountered this challenge in Somalia, where they had developed an extremely advanced and sophisticated network with reach superior to any other humanitarian agency. WFP was subsequently forced to suspend their operation and temporarily abandon Somalia because of concerns about unknown but presumably excessive amounts of diversion.

99. Interviewees cautioned that not all local staff are equally capable of safely building networks for UNHCR, and the decision to delegate that responsibility to them is sometimes driven more by operational necessity rather than a careful consideration of their ability and safety. This transfer of risk invariably occurs when UNHCR withdraws its international staff, leaving local staff to carry the burden on the ground. While organizations including UNHCR have come to rely upon partial or complete remote management in some complex emergencies, a debate has also emerged about whether this practice is ethical, particularly because the assumption that local staff are less at risk because of their nationality is not always valid.³⁰ UNHCR was confronted first-hand with both the moral and practical

³⁰Egeland, Harmer and Stoddard, 24.

implications of this approach in 2008 when the Chief of the Mogadishu office was kidnapped, forcing senior international staff based in Kenya to negotiate the release.

100. The ability of local staff to perform the function of negotiator or intermediary in a manner that both respects their personal safety and upholds the organization's commitment to humanitarian principles varies considerably by context. In a conflict where social cleavages or political affiliations play a prominent role, local staff may not be able to even travel freely throughout the country, let alone divorce themselves of their own bias as members of the local community. For example, in Sri Lanka and the CAR, interviewees noted that certain local staff could not even travel NSAA-controlled areas. In Georgia, the organization's ability to maintain the trust of non-state or quasi-state actors was predicated on the make-up of the staff, and whether ethnic Abkhaz, Georgians or Ossetians were present.

101. In short, when UNHCR decentralizes responsibility for engagement to the country office, the composition of both the national and international staff becomes a major variable. The "common sense" of those directing the engagement is relied upon quite heavily, particularly when the UNHCR plays a prominent role in a crisis but engagement remains largely informal and ad hoc.

The UN system and coordinated engagement

102. Over the past couple of decades, UNHCR has lost a degree of autonomy over engagement with NSAAs in complex emergencies, in favour of the UN's military bodies and political channels. On more than one occasion, interviewees recalling experiences from older cases such as Sri Lanka, Georgia and Bosnia, emphasized that NSAAs had viewed UNHCR as preferable interlocutors compared to other UN and humanitarian agencies, largely because the organization had sustained a prominent presence over time. Conversely, there was far less consensus on whether today's NSAAs even distinguish, for better or worse, between UNHCR and other actors on the ground.

103. The decline in independence is especially evident in cases where a Special Representative of the Secretary General (SRSG) or HC has been assigned to the country. As part of this general trend, formal and official engagement with NSAAs is increasingly being filtered through the ranking UN representatives, although UNHCR does maintain limited scope to independently engage on an informal basis.

104. The case of the DRC illustrates the transformation that has occurred in the past 10 to 15 years. In the mid-1990s, UNHCR negotiated directly with Laurent Kabila's AFDL rebels in Bukavu to secure the release of roughly 300 international humanitarian staff from various organizations. While the rebels were not officially holding them hostage, they were extremely reluctant to allow a humanitarian withdrawal from their territory, fearful that a mass departure would render them more vulnerable to government attack. At the time, UNHCR undertook the negotiation without significant support from any UN political, military or security personnel, which the interviewee suggested would be impossible today considering the shifts towards integration and coordination, as well as risk aversion in general. Fast-forward to the current conflict in the DRC, and UNHCR is far less involved in directly engaging the rebels, particularly when open fighting breaks out.

105. In almost all complex emergencies, there is now a UN political representative (SRSG or HC) responsible for the diplomatic component of engagement, while the United Nations Department for Safety and Security (UNDSS) and/or a peacekeeping mission is tasked with security. There are exceptions to that rule, however, where the UN does not maintain a significant presence outside the humanitarian realm, perhaps because the emergency is not classified as complex. As a result, in cases such as the CAR and the Philippines, UNHCR's inter-agency collaboration on issues related to NSAAs is mostly limited to Office for the Coordination of Humanitarian Affairs (OCHA) meetings and other information sharing forums.

106. Nonetheless the UHCR maintains the scope to engage independently, albeit informally, with NSAAs outside the integrated structures of the UN, although that can play out in a plethora of ways. First, occasional incidental contact is unavoidable, especially if the UNHCR country operation is sizeable and/or has preserved a long-term presence. Second, a fair degree of independent UNHCR engagement is actually discussed beforehand with the SRSG or HC, and it would be quite rare for substantive informal engagement to not be sanctioned first. Third, sometimes if a humanitarian organization does hold a comparative advantage, the SRSG or HC may actually encourage independent engagement provided that it benefits and represents the interests of the broader humanitarian community. And fourth, if necessary, the High Commissioner can hypothetically overrule the SRSG or HC, which provides UNHCR with the ability to opt out of integrated engagement under extenuating circumstances.

107. Opinions on the benefits and drawbacks of integrated engagement with NSAAs were predictably mixed, as they are regarding humanitarian reform in general. While some interviewees expressed concern that the loss of independence undermines UNHCR's ability to utilize its comparative advantage where it has one, others suggested a more unified humanitarian position is desirable in order to avoid allowing NSAAs to play one organization off each other in negotiations. On one hand, some concern was expressed regarding how military and peacekeeping involvement can compromise humanitarian principles, most importantly UNHCR's ability to foster and uphold its image as a distinct organization with a defined mandate. On the other hand, certain interviewees stressed that in countries such as the DRC, peacekeeping missions actually allow UNHCR to focus on fulfilling that mandate, leaving issues of security and access to the trained military and political actors.

108. Whatever the merits of more integrated engagement, in the most complex environments it has unmistakably shaped contemporary approaches to working with NSAAs. That being said, while UNHCR has certainly decentralized authority for engagement over the years, the burden placed upon field staff may not have changed considerably in some contexts. Compared to the Cold War conflicts where HQ was fairly involved in overseeing engagement, much of the influence and power previously held by senior management, may simply have been reallocated to the responsible UN actors as part of a move towards integration.

When engagement fails

109. Engagement with NSAAs does not always yield operational benefits for UNHCR, nor is it necessarily sustainable considering the volatility of complex emergencies and the challenges inherent in working with potentially unreliable interlocutors. Therefore, negotiations with NSAAs are always at risk of breaking down, and relationships can also fail to take flight if the initial engagement is unsuccessful. There are typically at least two sides to every story of faltered or failed engagement, and therefore while this section explores primarily UNHCR's perspective, consideration is also given to viewpoint of the NSAAs and the host states.

Perception and politics

110. As mentioned in the previous section, the UNHCR's ability to stand out amongst the humanitarian crowd, based on its mandate and track record in protracted crises, not only varies by context but is also influenced by the shift towards integration and coordination. The most prominent such concern involves the association of humanitarian organizations with Western actors and the suspicion that aid workers are in fact agents of Western foreign policy. Interviewees offered mixed responses on the degree to which UNHCR is impacted by such perception issues, even in hostile environments such as Afghanistan and Somalia

111. Interviewees noted that UNHCR's expanded work with IDPs has improved its standing in protracted conflicts such as the DRC, where locals recognize that the entire displaced population is now assisted equally. No longer does UNHCR need to combat the perception that the organization provides preferential treatment to the Congolese refugees who have crossed an international border, or the refugees from Rwanda, Burundi and elsewhere that have yet to return.

112. Conversely, UNHCR's struggle to justify its definition of IDPs, as people of concern distinct from the broader local population, has also undermined efforts to maintain public confidence. To this end, the implementation of PPPs and Quick Impact Projects (QIPs) can mitigate to some extent the risk of appearing to be selective in the provision of protection and assistance, particularly in order to avoid the proliferation of rumours of favouritism towards or discrimination against individual clans, tribes or ethnic groups.

113. Because the perception of UNHCR greatly affects the relationship with both the local population and the combatants, public information control carries pivotal importance. Devising the appropriate communication strategy, however, depends upon a savvy analysis of the political landscape and an appreciation of the operational capacities of UNHCR within the country.

114. On one hand, an open and consistent approach is ideal in order to engender local trust and act as a security safeguard when working in a hostile environment. For example, UNHCR deliberately emphasizes its mandate throughout stakeholder meetings and field visits in Colombia because rebels could be present in plainclothes. Field staff therefore operate under the assumption that statements made in a public forum would eventually be communicated to NSAA leaders.

115. On the other hand, while an open and visible presence may be the *modus operandi* for UNHCR, political sensitivities have also forced the organization at times to adopt alternative approaches, particularly when UNHCR has a fragile relationship with a crucial political or military actor. Most recently in Afghanistan, UNHCR staff have been deliberately instructed to maintain a low profile and refrain from publicly disclosing any information or making any statements regarding engagement with either the government or NSAAs. The staff was also advised to be very cautious about inviting local contacts to UNHCR premises, out of concern that observers could pass along such information to interested parties.

116. In short, relationships with NSAAs, like with government officials, do not operate in a vacuum at the negotiation table, and are linked to the broader perception of the operation.

Avoidance or abandonment

117. The most obvious contemporary reason why UNHCR would not engage NSAAs is because governments have listed certain groups, such as the al-Shabaab and the Taliban, as terrorist organizations. Beyond the prospect of legal ramifications related to the United States Patriot Act and *Holder v. Humanitarian Law Project*, because working with NSAAs that are popularly regarded as illegitimate will always be politically sensitive, not all NSAAs can be treated as viable negotiating partners. Any advertisement of engagement with quasi-terrorist groups would conceivably put UNHCR's reputation at risk, most importantly among the donor community.

118. The potential for geopolitics to inhibit UNHCR's engagement of NSAAs dates back at least to the earliest reviewed case studies. The El Salvadorian case was steeped in Cold War politics, particularly considering the linkages between conflicts in Central America. The High Commissioner expressly forbid engagement with the FMLN until 1987, and even afterwards UNHCR staff were constantly fighting against the perception that local level engagement with the rebels was an act of political endorsement or sympathy. Nonetheless, UNHCR will also avoid or abandon engagement for operational purposes as well. In fact, interviewees emphasized the practical impediments and compromises far more than the geopolitical factors, when reflecting upon scenarios where UNHCR has not engaged NSAAs.

119. While the media debate on Somalia has often focussed on al-Shabaab and the popular concern that humanitarian organizations may inadvertently provide support to terrorists, that angle captures only one facet of the challenge of diversion, which has a range of practical implications for UNHCR operations. While the anti-terrorism legislation of donor states *de jure* forbids humanitarian organizations from providing any assistance that could fall into the "wrong hands", interviewees suggested that most countries have privately accepted that some diversion is an intractable reality.

120. This is definitely apparent when a state has failed and an informal war economy has emerged in the absence of formal markets. After twenty years of anarchy in Somalia, even the most cautious organizations can neither pinpoint how much assistance is being rerouted, nor into whose hands that aid eventually lands. While interviewees gave modest consideration to the anti-terrorism rhetoric, they nonetheless asserted that the decision on whether to provide assistance to NSAA-controlled areas is based primarily on a cost-benefit analysis that weighs the risks inherent in operating as UNHCR in complex emergencies.

121. Concerns about security have also forced UNHCR to abandon engagement when the conflict directly threatens humanitarian organizations. Certain NSAAs are categorically dismissed as potential negotiating partners, with whom UNHCR does not have any desire to communicate about operational matters. The most convenient example is the LRA, which continues to operate in both DRC and CAR; another is the Islamic fundamentalist ASG in the Philippines. While both groups have an established track record of violence against civilians, they can also be pragmatically disregarded because they do not control substantial territory, nor are they supported by enough of the local population to make them relevant actors politically or militarily.

122. The definition of 'non-state' again comes into question when determining, in practical terms, why certain individual actors are not treated as viable partners for engagement. Banditry is sometimes identified as the greatest challenge to access and security in a complex emergency, because failed states are by definition plagued by lawlessness, particularly along supply routes.³¹ While UNHCR staff avoids, to the full extent possible, unnecessary interaction with armed groups motivated purely by financial gain, where do you draw the line? The cross-fertilization of criminal and military elements has been documented the world over, not only in failed states such as Somalia, but also conflicts in middle income countries such as Colombia, where the drug trade has notoriously financed the decades-old conflict.

123. UNHCR may also be incapable of engagement with NSAAs because they cannot access or identify the necessary interlocutors. First, in remote environments such as North Darfur, the infrastructure may allow UNHCR to safely or consistently travel to rebel bases and enclaves; and second, some NSAAs will be reluctant to visit a UNHCR office for a meeting. This is regularly a problem when NSAAs retreat into the mountains or forests to conduct guerrilla warfare, however such NSAAs may continue to command soft control over the territory even while maintaining a presence invisible to UNHCR.

124. NSAA forces may also be hard to identify if they disappear into the local population, either in order to hide or simply because they attempt to wear both the hat of rebel and citizen. While this has typically occurred in refugee camps, most notably in the Great Lakes crisis of the mid-1990s, UNHCR has struggled to separate combatants from sympathetic locals in conflicts such as Abkhazia as well.

Host states and obstructionism

125. The host state and the NSAAs may also prevent engagement from beginning or continuing simply by refusing to cooperate. Although in extreme instances governments have directly blocked UNHCR from engagement, or an NSAA may abruptly abandon negotiations, the more likely scenario is that one or both of the actors obstructs or threatens the process to such a degree that UNHCR has no option but to suspend engagement, if not operations entirely.

³¹Egeland, Harmer and Stoddard, 11.

126. As previously noted, the support of the host state is a procedural hurdle to engagement with NSAAs, although UNHCR is normally able to receive such clearance by standing by its mandate and principles. However not all governments are cooperative, and indeed one interviewee commented that working with the Sudanese government induced far more headaches than the JEM or other NSAAs. Even in supposedly rebel-controlled areas, security officials from Khartoum would routinely appear unannounced at meetings, and attempt to intimidate participants or manipulate the proceedings.

127. UNHCR's relationship with NSAAs, as well as the support of host governments, may also break down because of the overall political situation in the country. For example in Colombia, after peace negotiations collapsed in 2002, UNHCR was forced to abandon its relationship with the rebels. At times the Sri Lankan government would similarly use the intensification of conflict as a justification for restricting access to LTTE-controlled areas.

128. The case study of Georgia, where ethnic tension, contested sovereignty and Russian involvement formed a perfect storm of defiance and suspicion, demonstrates how both governments and NSAAs can force UNHCR to concede defeat when the parties are unwilling to genuinely work together. Most recently in the 2008 conflict, the South Ossetian authorities stipulated that UNHCR assistance could only enter the breakaway republic from Russia, which coaxed the Georgian authorities into insisting the opposite, that aid must be delivered through Georgia

129. Much earlier in 1994, when UNHCR attempted to facilitate repatriation as part of the Quadripartite Commission with Georgian, Russian and Abkhazian authorities, the latter rewrote the book on diplomatic obstructionism. After months of watching the Abkhaz representatives make a mockery of the process by refusing to show up for meetings and inventing bureaucratic impediments to the return of ethnic Georgians, UNHCR was forced to abandon diplomatic efforts and subsequently withdraw from the territory entirely. Only 311 IDPs returned to Abkhazia in 1994, resulting in a protection vacuum in 1995, with only ICRC remaining within the breakaway republic.³²

130. The Abkhaz defiance was so successful that not only did it coerce UNHCR into suspending its operations and abandoning repatriation, but the diplomatic impasse also moved Abkhazia considerably closer to *de facto* sovereignty. While the efforts to repatriate the displaced in Georgia necessitated UNHCR involvement, the decision to venture into the political minefield of wartime diplomacy carried substantial risk for the organization. That UNHCR sincerely attempted to abide by its principles and mandate in Abkhazia was likely little consolation for the failure of the 1994 repatriation efforts.

³²Mooney, 212.

Conclusion

131. The objective of this research project was not to provide specific recommendations, which may not even be possible considering the context specificity of each case study. Rather, the review attempted to elucidate critical reflections and outline crucial points of discussion. Interviewees nonetheless offered several conclusions and recommendations of their own, and a few of those suggestions are explored below.

132. When interviewees were asked whether field staff could be better instructed or supported, the common refrain was that universal policies or HQ involvement would not practically strengthen UNHCR's ability to engage with NSAAs. While respondents indicated that a country operation would always heed specific directions from senior management in Geneva if they were necessary, they nonetheless insisted that the vast majority of engagement is ultimately governed by the 'common sense' of field staff. Moreover, while some interviewees were familiar with handbooks and guides on working with NSAAs, most notably the OCHA-produced *Humanitarian Negotiations with Armed Groups: A Manual and Guidelines for Practitioners*, the implication was that such documents are very rarely consulted.

133. With that finding in mind, this particular aspect of UNHCR's work, which combines aspects of operational organization with diplomacy, seems more reasonably suited for an advanced learning workshop, whether it be created anew or added to an existing training exercise.³³ While some interviewees felt that the ability to effectively engage NSAAs is more of an inherent personal attribute than a teachable skill, others expressed concern that UNHCR's capacity in this regard has declined over the years. However, if UNHCR were to attempt to ameliorate the overall competency of its staff in this regard, the training should be an active exercise, not simply the dissemination of more passive reading material destined to find a place on a dusty shelf.

134. Risk management is one area where respondents felt UNHCR was perhaps too weak, or at least needs to take a closer look. While some of this responsibility has been swallowed up by UN coordination and integration mechanisms, both international and local staff are still placed under considerable pressure to process security information and respond to such challenges. Strengthening the organization's capacity in this regard would effectively upgrade the 'common sense' of staff operating in complex emergencies and volatile conflicts.

135. Concern was also raised that the daily burden of having to assess, and perhaps negotiate, the safety and security of a country operation or field office can take a considerable toll on the mental health of staff. To that end, it was suggested that UNHCR might be well advised to re-evaluate its approach to debriefing staff returning from challenging posts or deployments. It might also be beneficial for the organization to reconsider the merits of having four-year terms for staff in complex emergencies, where the risk of burn out is considerably higher.

³³ While the training UNHCR staff receive at the WEM related to NSAAs was not researched in detail, nor did interviewees make the connection, this is one example of training which could perhaps be examined in an effort to avoid adding another workshop to the organizational budget.

136. There were also positive lessons that emerged throughout the research as well, many of which demonstrate the sharp decisions that field staff will come to through effective context analysis. One particularly impressive adaptation was the use of minibuses in Darfur, devised as a means of deterring hijacking. While part of the equation is obtaining reliable security intelligence, in that instance UNHCR also benefited from understanding the motivations of would-be hijackers and comprehending how criminal and military elements cross over in Darfur.

137. Context analysis can also be enhanced by better use of academic literature according to some interviewees, who asserted that humanitarians are often too dismissive of the information that independent researchers have to offer. For example, the Small Arms Survey, well cited in this report, boasts remarkably detailed information on numerous conflicts and NSAAs. While senior staff may not have the time to regularly consult secondary sources, the task could perhaps be delegated to junior staff responsible for information management.

138. Finally, considering the field staff's decision-making autonomy from HQ, perhaps the most notable finding was that international staff often utilize their own networks to foster engagement with NSAAs. This raised the question of whether staff rotation undermines UNHCR's ability to maintain diplomatic networks and properly utilize such resources. On one hand, a couple of interviewees asserted that they drew on old friendships from decades past in a particular country. On the other hand, no contributors suggested that in-country experience and connections to local powerbrokers ever inhibited their work as international staff.

139. Overall, this review has surveyed a variety of relevant issues, many of which re-appeared across various contexts. Conversely, certain recurrent issues also applied quite differently to those different cases, and sometimes would not surface at all in other instances. While the context specificity of engagement with NSAAs allowed for engrossing research and fascinating interviewees, it also resulted in an unscientific methodology and prevented the formulation of general policy prescriptions. With the way the wind is blowing with today's complex emergencies, it is highly unlikely the uniqueness of this challenge will change in the near future.

ACRONYMS

AFRC:	Armed Forces Revolutionary Council
APRD:	People's Army for the Restoration of Democracy
ASG:	Abu Sayyaf Group
CAR:	Central African Republic
CNDP:	National Congress for the Defence of the People
DRC:	Democratic Republic of the Congo
ECOMOG:	Economic Community of West African States Monitoring Group
FARC:	Revolutionary Armed Forces of Colombia
FMLN:	Farabundo Marti National Liberation Front
HC:	Humanitarian Coordinator
HQ:	UNHCR Headquarters
ICRC:	International Committee of the Red Cross
IDP:	Internally Displaced Person
IRC:	International Rescue Committee
JEM:	Justice and Equality Movement
LRA:	Lord's Resistance Army
LTTE:	Liberation Tigers of Tamil Eelam
MILF:	Moro Islamic Liberation Front
MLC:	Movement for the Liberation of the Congo
MNLF:	Moro National Liberation Front
NGO:	Non-Governmental Organization
NPFL:	National Patriotic Front of Liberia
NSAA:	Non-State Armed Actor
OCHA:	Office for the Coordination of Humanitarian Affairs
PPP:	Protection through Presence Projects
QIP:	Quick Impact Project
RCD:	Rally for Congolese Democracy
RUF:	Revolutionary United Front
SGBV:	Sexual and Gender Based Violence
SLA:	Sudan Liberation Army
SLA-AW:	Sudan Liberation Army - Abdul Wahid
SLA-MM:	Sudan Liberation Army - MinniMinawi
SRSG:	Special Representative of the Secretary General
TFG:	Transitional Federal Government
UFDR:	Union of Democratic Forces for Unity
UNDP:	United Nations Development Programme
UNDSS:	United Nations Department of Safety and Security
UNHCR:	United Nations High Commissioner for Refugees
WFP:	World Food Programme

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