HPG Working Paper

Talking to the other side

Humanitarian negotiations with Al-Shabaab in Somalia

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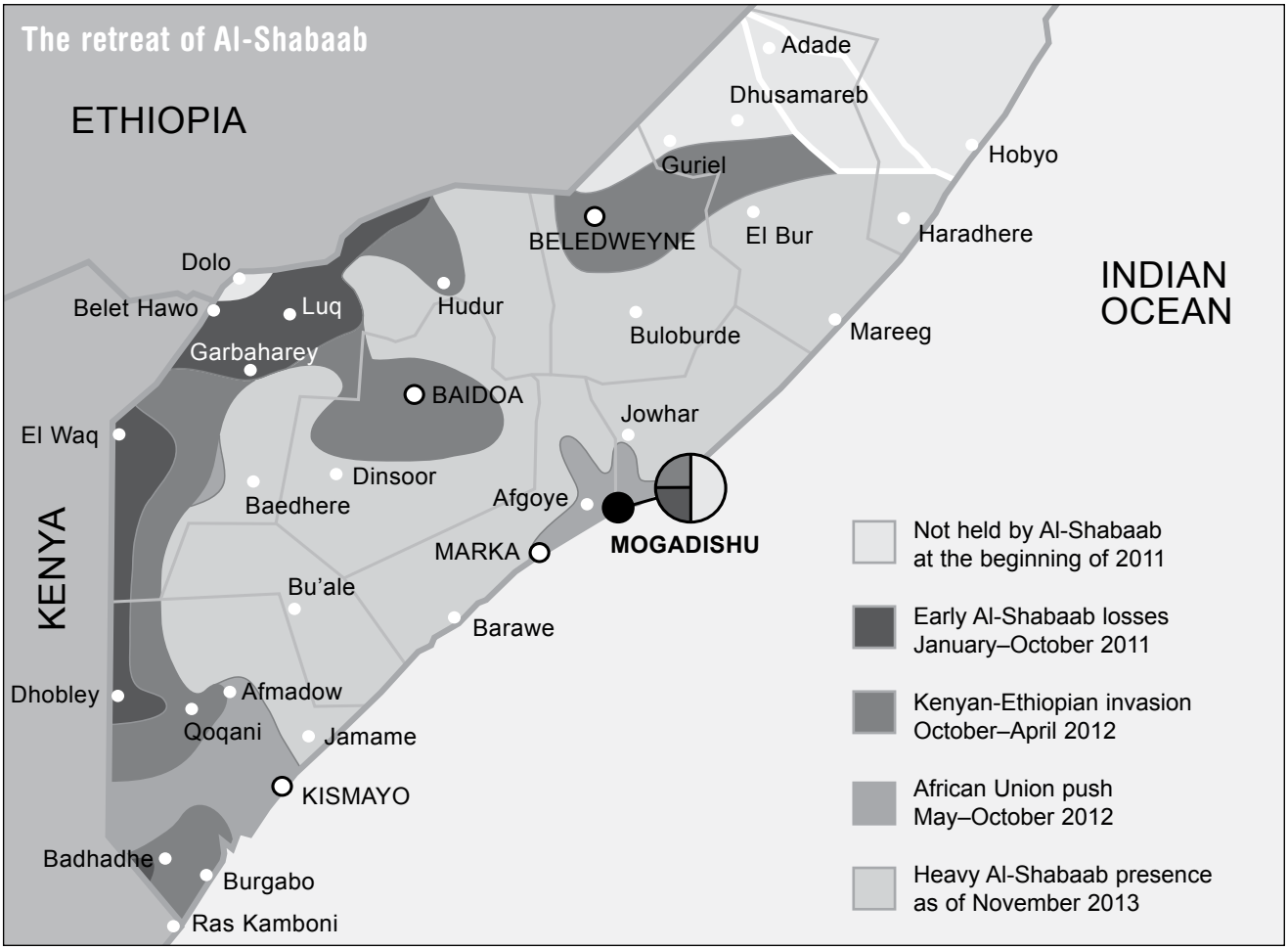
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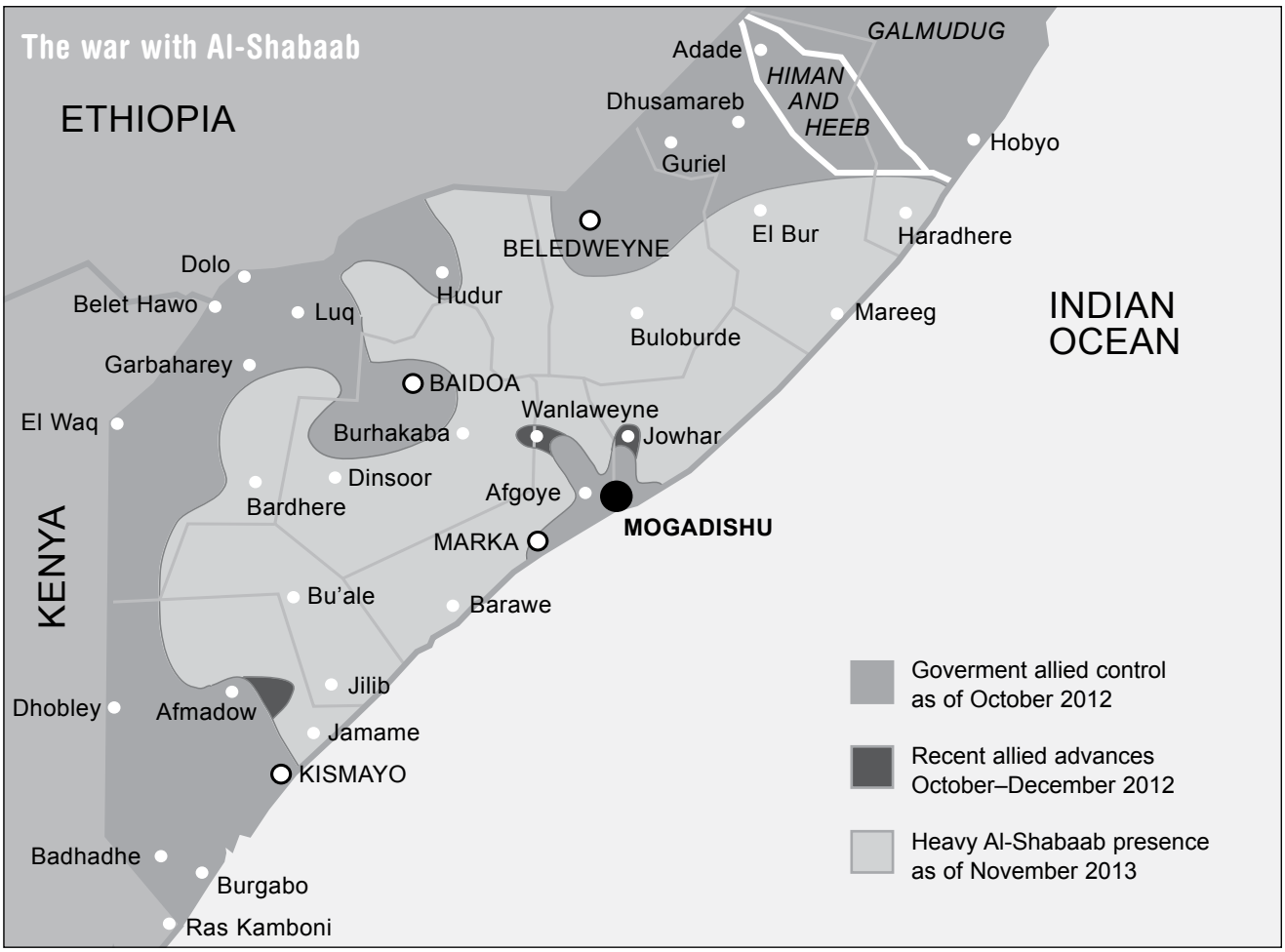
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Executive summary

Somalia is one of the most dangerous environments in the world for aid workers. One of the most formidable obstacles to reaching people in need of assistance has been Harakat Al-Shabaab al-Mujhadeen (Al-Shabaab). As it sought to instate extreme policies guided by its radical brand of Islam, Al-Shabaab also expressed outright hostility towards aid agencies, routinely expelling, attacking, extorting and harassing aid workers. However, Al-Shabaab did permit some agencies to continue to work. Little is understood about how agreements were reached and the terms of these arrangements. Agencies negotiating access with Al-Shabaab generally did so discreetly. Fear of incurring the wrath of Al-Shabaab, alongside apprehension of falling foul of counterterror restrictions or being seen to support 'terrorists', made many aid agencies reluctant to publicly discuss the conditions, compromises and constraints of negotiating access.

The backdrop to the humanitarian dilemmas explored in this Working Paper was the famine of 2011. By September 2011, the famine had spread to six regions of Somalia, with the UN warning that 750,000 lives were at risk. In the event, more than a quarter of a million people are estimated to have died, over half of them children. The famine was concentrated in Al-Shabaab-controlled territory.

This research, based on over 80 interviews with aid workers, civilians and former Al-Shabaab officials, attempts to shed light on humanitarian engagement with Al-Shabaab. While structures, policies and attitudes towards aid agencies evolved during its rise to power (2006–2008) and at the height of its military and territorial control (2008–11), Al-Shabaab ultimately sought to implement a highly structured system of regulation, taxation and surveillance of aid agencies. Military pressure on Al-Shabaab increased from 2011 onwards, driving it from many of its strongholds and weakening its governance structures. Nonetheless, it has not yet been militarily defeated, and it continues to pose a threat to aid workers.

High-level structures, including a Humanitarian Coordination Office (HCO), governed access policy under the supervision of the senior leadership council (*shura*). Yet most access negotiations occurred at the local level between aid workers and representatives of Al-Shabaab. Despite some variation across geographic areas, a similar pattern and set of processes emerged from the accounts of interviewees. Al-Shabaab Humanitarian Coordination Officers were locally appointed to regulate access, collect 'taxes' and monitor aid agency activities. Initial negotiations focused on registration and the vetting of aid agencies, specifically the payment of registration fees (as much as $10,000). Aid agencies were also often required to complete registration forms and other documentation that laid out general conditions for access, including pledges not to proselytise. Al-Shabaab asked agencies to disclose project details, which could include specific activities, budgets and staff members' names. In some cases, additional 'taxes' were demanded based on project type or size, and Al-Shabaab attempted to co-opt or control the delivery of aid, particularly if activities included the distribution of goods. The activities of aid agencies were monitored directly by Humanitarian Coordination Officers; civilians were also forced by Al-Shabaab to provide information or otherwise report on aid agency activities. Monitoring was designed to ensure that aid agencies complied with Al-Shabaab's conditions. The consequences for breaking the rules were extreme: expulsion, additional taxation and attacks on aid workers. In justifying expulsions, Al-Shabaab routinely cited 'investigations' of agencies and findings ranging from poor-quality work to espionage.

While publicly framing its engagement with aid agencies in terms of efficiency or security, Al-Shabaab's motivations in regulating agencies were far more complex. As a group that sees itself as a 'government in waiting', co-opting aid agencies furthered its self-image and demonstrated that it had something positive to offer civilians. There were also economic motivations. While the taxation of aid agencies was only a small part of a broader system of taxation, and the group had numerous other income sources, registration and other 'fees' levied on agencies, taxes on local aid workers' salaries, property rentals, transport costs and other aid-driven activity provided

revenue for the group. At the same time, however, the desire to co-opt and profit from aid activity conflicted with a deeply held suspicion of aid agencies, which were genuinely seen by many within Al-Shabaab as spies or as having sided with its enemies. Counterterror laws and political pressure on aid agencies from the UN and Western donors to support the struggling national government reinforced these perceptions.

Reflecting on engagement with Al-Shabaab is important not only for what it reveals about the group, but also for what it reveals about aid agencies. Arguably, agencies faced an impossible choice: agree to Al-Shabaab's conditions, with the hope of providing badly needed assistance to civilians, or withdraw from areas it controlled. While the systems and procedures Al-Shabaab put in place provided a measure of predictability and security for some, its conditions were extreme and posed a direct challenge to many of the principles aid agencies claimed to espouse. Aid agencies were also forced to contend with political pressure from donors and the government of Somalia, and had to deal with complex and confusing counterterror restrictions that deterred open engagement with Al-Shabaab. The general lack of coordination and collaboration, as well as a lack of humanitarian leadership, undermined the ability of aid agencies as a whole to reach populations in need of assistance. These factors weakened the perceived independence, impartiality and neutrality of humanitarian actors, and reinforced Al-Shabaab's already deeply engrained suspicions.

1 Introduction

Somalia is one of the world's most sustained 'cases of state collapse', lacking a central government for the past two decades, experiencing varying degrees of war and conflict and enduring famine in 1991–92 and 2011–12, and remains one of the world's most dangerous and complex operating environments for aid agencies (Bradbury, 2010: 2). In recent years, one of the greatest obstacles to reaching those in need of assistance has been Harakat Al-Shabaab al-Mujhadeen (Al-Shabaab). Al-Shabaab's hostility towards aid agencies, particularly Western ones, is well documented. Less well-examined are the instances where aid agencies were able to negotiate access to areas under Al-Shabaab control.

The aim of this research is to understand Al-Shabaab's policies towards, and engagement with, humanitarian actors. It focuses primarily on the period of Al-Shabaab's greatest military strength and territorial control, from roughly 2008 until 2011. This analysis is grounded in an examination of the origins of these policies and structures, as well as the challenges Al-Shabaab continues to pose to humanitarian access, despite significant military and territorial losses since 2011. Based primarily on over 80 interviews with former members of Al-Shabaab, civilians and aid workers, it seeks to make a contribution to the existing body of research on how insurgent groups seek to govern, as well as aid agencies' understandings of humanitarian engagement with Al-Shabaab.

1.1 Overview of the project

Over the past two decades, humanitarian actors have expanded the geographic scope of their work to more challenging and dangerous environments. As a result, negotiations with non-state actors have become increasingly important in order to gain access to populations in need of assistance. Yet many humanitarian actors feel that negotiating with armed groups involves formidable challenges, including a lack of respect for international humanitarian law (IHL), hostility to humanitarian principles and distrust and suspicion of humanitarian organisations.

In 2011, HPG initiated research on aid agency engagement with armed groups, and how this engagement affects people's access to protection and assistance. The work seeks to illuminate this engagement through case studies in complex political and security environments, to learn from productive experiences of dialogue with armed non-state actors and to investigate the dangers and risks inherent in this engagement, including the moral dilemmas that often arise in negotiations and the compromises agencies make in order to gain access.

1.2 Methodology

This study is principally informed by structured interviews conducted both in person and via telephone with aid workers, aid recipients and representatives of Al-Shabaab. A total of 83 individuals were interviewed in south-central Somalia, with 24 additional key informant interviews with researchers, academics and former aid workers now located outside Somalia. The interviewees were selected based on their knowledge of Al-Shabaab's attitudes and policies towards humanitarian operations in Somalia. Nineteen interviewees were government officials and aid workers directly involved in aid delivery in Al-Shabaab-controlled territory, 27 were recipients of aid under Al-Shabaab's domain and the remaining 13 worked directly or indirectly with Al-Shabaab's Humanitarian Coordination Office. Individuals affiliated with Al-Shabaab were not directly involved with the military arm of the movement or the senior leadership and do not represent a cross-section of the group, so their views cannot be seen as representative of Al-Shabaab as a whole. However, their experiences reflect those of individuals involved, often on a daily basis, in the business of negotiating aid access on the ground. Finally, government officials tasked with monitoring Al-Shabaab's attitude and policies towards humanitarian actors, and those funding the humanitarian response, were also interviewed.

During the data collection phase, researchers visited areas previously controlled by Al-Shabaab, including North Mogadishu, Daynile district, Elasha and parts

of Bay and Lower and Middle Shabelle regions. The selection of sites was limited by security conditions, but aimed to ensure a balanced representation of experiences and perspectives. To reduce bias, individual interviews followed a semi-structured set questionnaire. Initial plans to interview civilians individually were often met with suspicion and resistance. Where this was the case interviews with civilians were conducted in a small group and guided by a questionnaire, though responses were consequently more discussion-based and iterative. A review of secondary literature was also undertaken, primarily academic publications, aid agency reports and media sources, initially to frame the research and later to cross-check and contextualise findings from the field research.

Conducting research of this nature is incredibly difficult, and certain concerns or biases may have influenced responses. There are many reasons why individuals may have exaggerated or underplayed specific events, or their involvement in them. Civilians and aid workers may have been afraid to speak candidly or give a full and frank account of their engagement with Al-Shabaab. Individuals associated with Al-Shabaab may have sought to depict the group as stronger or more sympathetic. Interviews were compared to one another and cross-checked where possible, to triangulate accounts of specific events or Al-Shabaab behaviour. To reduce the potential risks of participation in the research, no interviews were attributed to named individuals.

1.3 Terminology and definitions

Aid agencies/humanitarian actors refers to both humanitarian and multi-mandate (humanitarian and development) not-for-profit (and a few for profit) aid organisations. These organisations, which include UN agencies, the Red Cross/Red Crescent Movement and international and national non-governmental organisations (NGOs), aim to save lives, alleviate suffering and maintain human dignity during and in the aftermath of crises and disasters.

Humanitarian access refers to humanitarian actors' ability to reach populations affected by crisis, as well as an affected population's ability to access humanitarian protection, assistance and services. While access is not directly defined in international law, the Geneva Conventions provide that impartial humanitarian organisations may offer to provide relief assistance to affected populations (subject to the consent of the relevant parties), and Common Article 3 of the Geneva Conventions provides the conditions that humanitarian operations must meet (such as adherence to humanitarian principles) to be allowed to carry out their work.

2 Context and operational constraints

Somalia's humanitarian crisis is one of the world's most severe and longest-running, driven by two decades of conflict, persistent drought and deeply entrenched poverty. Out of an estimated population of 10 million, there are 1.1m internally displaced people and 3.8m people were believed to be in need of live-saving assistance or other crucial support as of 2012 (OCHA, 2013; OCHA, 2012). Somalia has long been one of the world's most challenging operating environments for aid agencies due to insecurity and other factors. The international community's engagement in Somalia has also been marked by a long history of aid diversion and politicisation, the legacy of which persists today. Understanding this legacy, and the consequent suspicion and mistrust of aid agencies, provides a critical context for understanding how Al-Shabaab perceived and engaged with aid agencies.

During the Cold War, much as with the 'Global War on Terror', Somalia's strategic importance drove high levels of Western aid expenditure. During the 1970s and 1980s, military and civilian aid propped up the deeply corrupt regime of Siad Barre, and was routinely diverted by local power-holders and government officials. The collapse of the government in 1991 and the devastating conflict that followed led to a full-blown humanitarian crisis. Most agencies withdrew to Nairobi, with the notable exceptions of Médecins Sans Frontières (MSF) and the International Committee of the Red Cross (ICRC), and there was very little scope for assistance. In part to address the humanitarian crisis, the UN Security Council approved Resolution 751 in April 1992, establishing the UN Operation in Somalia (UNOSOM I). UNOSOM I had a limited mandate and was militarily weak, prompting a second resolution, Resolution 794, on 3 December 1992, which created a transitional body aimed at restoring security, the Unified Task Force (UNITAF), under US command. The deployment of almost 40,000 troops under Operation Restore Hope led to an improvement in the security situation and an expanded aid presence. However, what began as a 'humanitarian' operation quickly became involved in skirmishes with local militias, and civilian casualties undermined support for the operation (Binet, 2013).

Following the dissolution of UNITAF, the UN Operation in Somalia II (UNOSOM II) was established in May 1993 with a core mandate of political reconciliation and state-building. UNOSOM II was widely seen as partisan, supporting some factions over others, and as an armed participant in the conflict (Hammond and Vaughan-Lee, 2012). UNOSOM's changed mandate also meant a change of approach, merging humanitarian and political objectives and further tainting humanitarian operations in the eyes of many Somalis. Many aid organisations depended on UNOSOM for armed escorts and 'were seen to be taking sides by virtue of where they worked, who they worked with, the source of their funds, and the nationalities of their staff' (HPG, 2011: 1). Relations between UNOSOM and the humanitarian community were also difficult. UNOSOM's mandate represented an expansion of the UN's political role, and humanitarian actors found themselves tied to a UN mission whose political and stabilisation aims 'created dangerous tensions with local militias' (Menkhaus, 2010: S326–27). UNOSOM and major donor governments sought to capitalise on humanitarian aid to advance 'stabilisation', and exerted pressure on aid agencies to contribute to their efforts. The UN Department of Humanitarian Affairs (the forerunner of the UN Office for the Coordination of Humanitarian Affairs (OCHA)) implemented 'quick-impact' projects aimed at creating stability and goodwill for national authorities (Menkhaus, 2010).

The dissolution of UNOSOM II in 1995 was followed by a respite from large-scale fighting, a period characterised by low-intensity conflict with occasional spikes of violence. The country was divided into multiple clan fiefdoms ruled by warlords, often in conflict over territory and resources. Aid workers had little choice but to rely on the physical protection provided by the warlords, and the warlords benefited from the presence and activities of international agencies. The deeply entrenched political economy of aid (i.e. diversion, taxation) and insecurity necessitated constant negotiations and deal-making with local authorities (warlords, gatekeepers, community leaders)

to gain access. In the early 1990s, large payments (i.e. $100,000 a week in Mogadishu or $28,000 a month in Baidoa) to armed guards and authorities for protection were routine and simply seen as the cost of doing business in Somalia (Hammond and Vaughan-Lee, 2012). As a result, some criticised aid agencies for fuelling the war economy and exacerbating conflict (Abild, 2009; de Waal, 1997).

The situation became more volatile with the emergence of the Islamic Courts Union (ICU) in 2005. There was significant fighting between the ICU and the Alliance for the Restoration of Peace and Counterterrorism (ARPCT), a loose coalition of warlords and others backed by the United States. The operating environment was permissive enough for some aid work to continue, but the limitations were severe: clan militias and marauding bands harassed aid agencies and confiscated supplies, and access had to be negotiated and renegotiated with various factions on a daily basis. This prevented large-scale humanitarian interventions, sorely needed at the time, and what assistance was being provided continued to be largely managed from Nairobi.

An invasion by Ethiopian forces targeting the ICU between 2006 and 2009 did little to stem the violence. In recent years, the conflict has centred on the Western-backed Transitional Federal Government (TFG), established in 2004, and subsequently the Federal Government of Somalia (FGS), established in August 2012, supported by the UN and the African Union Peacekeeping Mission (AMISOM), and Al-Shabaab. However, little has been done to address the pressures aid agencies face or the widespread attempts at diversion by various powerholders. As Menkhaus (2008) notes, 'the parallel between the international community's unconditional support for the TFG and its reluctance to impose conditions on the Barre regime in the 1980s is striking, but unsurprising given the fact that, in both cases, powerful strategic imperatives were at stake'.

2.1 Access constraints

Amid intense conflict between forces allied to the TFG and various armed opposition groups, attacks on aid workers increased sharply, from 14 in 2007 to 51 the following year.[1] Much of the senior leadership of many international aid agencies was already based in Nairobi and many agencies had been operating via remote management, to varying degrees, since the mid-1990s. This spike in violence resulted in the temporary or permanent relocation of many remaining international aid agency staff. Attributing responsibility for the attacks on aid workers is difficult, but there is some indication, at least prior to 2009, at which point Al-Shabaab controlled most of southern Somalia and portions of Mogadishu, that blame lay with both Al-Shabaab and forces allied with the TFG (Neuman, 2011). The number of attacks on aid workers has decreased dramatically since 2009, although this may be the result of reduced aid agency presence in south-central Somalia rather than any improvement in security for aid workers.[2]

While access and security deteriorated, humanitarian and development funding increased. This was driven both by need – particularly during the 2011 famine, which affected an estimated 750,000 Somalis, many living in areas under Al-Shabaab control – but also by the political and foreign policy objectives of donor states. Aid levels nearly tripled, from $276m in 2006 to $787m in 2011 (Hammond and Vaughan-Lee, 2012). Despite greater funding, the political objectives of donor governments increasingly constrained the delivery of aid and worked against the efforts of aid agencies to appear impartial, neutral and independent. Many donor states and the UN Political Office for Somalia (UNPOS) put pressure on aid organisations to direct their work towards supporting and strengthening the legitimacy of the TFG.

The UN is widely seen as partial by Somalis and humanitarian actors alike given its support for the government (Bradbury, 2010). The UN Security Council has taken action directly against Al-Shabaab, designating the group as a threat to peace and security in Somalia and adding it to the list of sanctioned entities in April 2010. As a listed entity, the group is subject to travel bans, asset freezes and arms embargoes. The line between the political and humanitarian components of the UN is not clear, in part due to the actions of the political arm of the UN and its historical role in the conflict. As a result, UN humanitarian actors have not been widely perceived by Somalis as distinct (Bradbury, 2010). These perceptions have resulted in difficulties in negotiating access on the ground: a former Al-Shabaab

1 See the Aid Worker Security Database, http://aidworkersecurity.org.

2 While direct attacks against aid agencies have declined there has been a reported increase in looting and attacks on agency property (Bradbury, 2010).

official described the group's decisions, discussed in more detail in Chapter 3, to ban some specific UN agencies as based on the belief that they were the 'most spy-friendly agencies'.[3] Humanitarian actors have long advocated against the integration of UN political and humanitarian roles, but with little effect. A new integrated mission for Somalia, the UN Assistance Mission in Somalia (UNSOM), was established through UN Security Council Resolution 2102 in May 2013.

Beyond pressure to support the government, constraints on aid agencies arose out of donor government fears of aid benefiting 'terrorists'. With the designation of Al-Shabaab as a terrorist group by the United States in 2008, and subsequent declarations by other donor governments,[4] funding was made conditional on safeguards to ensure that it was not benefiting the group. Potential consequences for breaking the rules were extreme. In the case of the United States, violations can result in both civil and criminal penalties, including fines of up to $1m or up to 20 years in prison (Pantuliano et al., 2011). Funding to areas under Al-Shabaab control initially declined. In 2009 the US Agency for International Development (USAID) humanitarian offices made internal policy decisions that resulted in a halt to processing new grants to Somalia and the non-renewal of existing grants, reportedly due to concerns within USAID about insecurity, diversion and counterterrorism laws. USAID humanitarian funding declined by 88% between 2008 and 2010, and the remaining funds were primarily allocated to geographic areas where Al-Shabaab was not active (Mackintosh and Duplat, 2013).[5]

The United States, Canada and many other major donors instated policies, stipulations in funding agreements or other regulations to support counterterror legislation. The bureaucratic restrictions and requirements attached to aid in areas where Al-Shabaab was active increased dramatically. These included 'pre-vetting finance checks, racking systems, real-time monitoring, verification of partners' shareholders, a bond system (requiring a deposit of 30% of the value of goods transported) and the contractual assumption of 100% financial liability for shipments lost or stolen by contractors' (Pantuliano et al., 2011: 9). However, there was, and remains, a lack of clarity within donor agencies about what the regulations meant and how aid agencies were expected to comply with them. This in turn resulted in self-regulation and extreme caution by many agencies, despite assurances (often informal) that agencies 'acting in good faith' would not be penalised. The resulting burden of bureaucracy was heavy, with some organisations feeling that it delayed programming and made it difficult to respond quickly to changing circumstances (Pantuliano et al., 2011).

With the 2011 famine affecting numerous areas under Al-Shabaab control, donor restrictions became acutely problematic. Although a lack of rainfall certainly contributed to the crisis, other factors – including rapid rises in food prices, the ongoing conflict and deeper structural problems – also played a role. Response to the initial warning of famine was slow and funding did not significantly increase until a famine was declared by the UN in July 2011. Access limitations, exacerbated by both donor restrictions and restrictions imposed by Al-Shabaab, hindered attempts to address the famine. As discussed further in Chapter 3, Al-Shabaab posed significant barriers to access, including obstructing the movement of civilians out of famine-affected areas. Additionally, WFP had stopped working in many affected areas in part due to difficulties with Al-Shabaab and donor concerns over diversion, 'crippling the possibility of a robust food response' (Maxwell and Fitzpatrick, 2012). By August 2011, tens of thousands of Somalis were already dead and half a million children were believed to be on the brink of starvation (Gettleman, 2011b). By September 2011, the famine had spread to six regions of southern Somalia and the UN warned that up to 750,000 people could die as a result; accounts from inside affected areas were harrowing, with some reports of as few as one or two family members surviving (Gettleman, 2011a). Ultimately, 258,000 people are believed to have died as a result of the famine, half of them children (Checchi and Robinson, 2013).

3 Telephone interview with former Al-Shabaab official, March 2013.

4 Al-Shabaab was listed as a foreign terrorist organisation by the US State Department following the group's proclamation of its allegiance to Al-Qaeda in February 2008. The governments of Norway and Sweden designated Al-Shabaab as a terrorist organisation in 2008; Australia, Canada and the UK followed suit in 2010.

5 Between 2008 and 2010, funding from several other majors donors also decreased. According to the OCHA Financial Tracking Service, UK funding decreased by 30%, Norway's by 55%, the Netherlands' by 50% and Canada's by 87%; Saudi Arabia ceased funding altogether. However, funding later increased as the extent of the drought and subsequent famine became clear. US humanitarian funding, for example, increased from $32.6m in 2010 to $86.1m in 2011.

The severity of the crisis forced a major shift with regard to counter-terror restrictions, A humanitarian 'carve out', or exemption, existed under UN Security Council Resolution 1916 (2010), and some governments issued similar humanitarian exemptions as the extent of the famine became clear. US Office of Foreign Asset Control (OFAC) restrictions were eased and a broad licence was granted to the State Department, USAID and their partners and contractors to operate in Somalia in terms similar to the 1916 exemption (Pantuliano et al., 2011; Mackintosh and Duplat, 2013). The State Department also stated that 'good faith efforts to deliver food to people in need will not risk prosecution'. However, the legal consequences of this policy guidance were not entirely clear and many aid agencies remained worried that there was no firm guarantee that OFAC would not take action in the future, and that they would still be open to prosecution under US criminal law. As a result, humanitarian organisations remained cautious, despite the progressive worsening of the humanitarian situation in south-central Somalia (Pantuliano et al., 2011). An additional constraint was the requirement contained in Resolution 1916 for the UN Humanitarian Coordinator to provide information about the activities of all agencies involved in the UN cluster system, including any instances of aid diversion or payments to Al-Shabaab. This was seen as problematic by many agencies, as it required them to pass on information about one party to the conflict (Al-Shabaab) to another perceived actor in the conflict (the UN, following the Security Council's designation of Al-Shabaab as a terrorist entity and the imposition of sanctions against the group) (Mackintosh and Duplat, 2013).

Beyond the direct constraints on aid delivery, such measures reinforced perceptions of aid agencies as neither independent nor impartial, and the explicitly partisan donor agendas they were seen to embody further compromised their ability to be present on the ground. An independent Inter-Agency Standing Committee (IASC)-sponsored evaluation of humanitarian response in Somalia from 2005 to 2010 found that 'conditionality imposed on humanitarian aid has led to a compromised response and limited humanitarian actors' ability to respond impartially and proportionately. With some exceptions, needs-based response has largely been compromised with some aid organisations having been perceived as taking sides' (Polastro et al., 2011: 9). A 2011 report released by OCHA similarly found that 'politically-based concerns have driven donor policy decisions, replacing the humanitarian imperative to help those in greatest needs', resulting in 'a failure to meet the needs of a significant proportion of the vulnerable population' (Egeland et al., 2011: 36).

Complying with counter-terrorism laws and policies – combined with insecurity – led many aid organisations to scale down their presence in Al-Shabaab areas or work remotely in south-central Somalia (Metcalfe et al., 2011). Lack of physical access meant that many agencies were unable to conduct assessments directly or thoroughly monitor activities and impact. Increased funding and pressure to deliver in the context of diminished access led to ever-greater dependence on national organisations or national staff, raising questions about monitoring and the transfer of risk. Many Somali staff and organisations directly present felt that they did not receive the resources or support they needed to ensure their own security and safety (see Stoddard et al., 2010).

With decisions largely made in Nairobi, for most organisations transaction costs rose in the form of new layers of staffing to oversee administration and monitoring and significantly enlarged operational budgets. Deteriorating security conditions led to a surge in travel and security costs, ranging from protection fees to armoured vehicles. The lack of oversight arguably facilitated long-standing problems of aid diversion and attempts to co-opt aid, both by those associated with the TFG and by armed opposition groups. This is hardly a new development in Somalia, but it is important to recognise that Al-Shabaab was not the only major access challenge. Aid diversion seen to benefit Al-Shabaab has received disproportionate donor and media attention, but this was hardly unique to areas under its control. Aid agencies were also forced to contend with persistent efforts by 'gatekeepers' and others in government areas to divert and control aid. Some agencies and donors exacerbated this problem by agreeing to work through such figures. The UN Monitoring Group on Somalia warned in 2012 that such arrangements were the '*modus operandi* accepted by many aid agencies and donors as the only way of "doing business" in Somalia' (UN Security Council, 2012: 320). Where reports of corruption emerged, they were not always acted upon and in some cases 'aid agencies and donors chose to ignore or bury reports to this effect' (UN Security Council, 2012: 26).

Given the contested and fragmented social and political landscape and the lack of a legitimate central authority, humanitarian negotiations in Somalia have rarely been straightforward. In 2006, for example, when MSF started working in Jamaame in the Lower Jubba region, it entered into negotiations with a wide array of elders and chiefs representing various clans. A theoretically simple task, such as hiring a car, would include finding out who owned it, what the power relationships were between clans and individuals involved in the car hire negotiations and evaluating the risks of reprisals against the organisation as a result of any deal struck (Neumann, 2011). In dealing with Al-Shabaab, such negotiations may be less fragmented, but are arguably complicated by the group's motivations. Rather than working with relatively well-known clan institutions and nascent government administrations with primarily economic motives for diversion, agencies have been forced to engage with ideologically driven authorities intent on a strict yet often unpredictable regulatory regime aimed at enriching the movement as well as furthering its legitimacy and control.

Effective monitoring was particularly difficult for large-scale operations and distributions, which were most vulnerable to theft and diversion given the many layers of subcontracting and long delivery chains involved. Many agencies attempted to address the situation through third-party or other monitoring means, but with mixed results. WFP faced perhaps the most public difficulties with oversight (Gettleman, 2009). In 2009, an internal UN report warned of 'considerable risk to the reputation and effectiveness of the organization', and in 2010 the UN Monitoring Group on Somalia reported that up to 50% of WFP's food aid was being diverted, although WFP disputed the allegations (Childress, 2009; UN Security Council, 2010). While some agencies appear to have improved monitoring mechanisms over time, significant concerns about theft and diversion remain. In June 2013, for instance, the UK Department for International Development disclosed that £480,000 ($770,000) in humanitarian aid had been confiscated by Al-Shabaab from its partners between November 2011 and February 2012 (DFID, 2013).

2.2 Aid agency engagement with Al-Shabaab

Despite the risks, some international and national agencies were able to remain present in areas under Al-Shabaab control. The IASC study cited above notes that 'neutral and independent organisations with longstanding presence and mutual trust with local leaders or communities largely maintained access to affected populations and reduced risks for their staff' (Polastro et al., 2011: 9). What is left out of such assessments is an explicit recognition that those that did remain present in Al-Shabaab areas were forced to engage, directly or indirectly, with the group in order to continue working. In research conducted with individual aid workers present in Al-Shabaab areas during this period, all stated that they directly negotiated with Al-Shabaab. Talking to Al-Shabaab was necessary in order to reach populations in dire need of assistance; without its consent, agencies simply could not safely work in the territories that it controlled. This was critical particularly during the drought and subsequent famine, which predominantly affected Al-Shabaab areas.

Agencies asserted that their strong links with communities and their track records, with the majority having been present for extended periods, were critical in enabling them to effectively negotiate. One aid worker described 'playing up the local card' even when his agency was undertaking work for an international organisation.[6] Others described the importance of selecting a skilled and appropriate negotiator, for example from the same clan as the Al-Shabaab representative. Some described appealing to Al-Shabaab's image as an alternative to the government by stressing the obligation of local commanders to care for civilians under their control. Many, if not all, tried to distance themselves from the government and the geopolitical objectives of donors allied against Al-Shabaab.

To varying degrees and regardless of the tactics employed, agencies were forced to accept conditions imposed by Al-Shabaab. Aid workers interviewed regularly described agreeing to pay negotiated registration and other fees to access Al-Shabaab areas (discussed further in Chapter 3). While aid workers on the ground appeared willing to frankly discuss the terms of access (albeit on condition of anonymity), the majority of senior aid agency representatives in Nairobi and elsewhere strongly rejected the claim that they provided money or material goods to Al-Shabaab in exchange for access. As one aid agency official lamented, 'From Nairobi, it was easy to say no, and all of the pressure was on your staff, the suppliers, contractors … who were then

6 Interview with aid worker deployed in Baidoa, March 2013.

having to organise themselves'.[7] This disconnect was compounded by the lack of visits by senior staff or funding agencies to, and monitoring of, agency operations in Al-Shabaab territory.

Another condition of working in Al-Shabaab areas was refraining from public criticism of the group. Many agencies that remained or supported partners on the ground did so quietly, limiting public statements about the deterioration of access or protection concerns due to a fear of being banned in retaliation by Al-Shabaab. While the tension between being able to remain present and the ability to speak out publicly is common in conflict settings, Hammond and Vaughan-Lee (2012: 4) describe how many agencies were 'operating in areas under Al-Shabaab control with the understanding that they are not to comment about civilian protection issues; they face expulsion or even targeted attacks on their staff if they speak out'.

Agencies appeared to rarely coordinate or collaborate with one another in their negotiations with Al-Shabaab. In some cases, funding agencies would discuss negotiation and engagement with partner organisations present on the ground.[8] Negotiations themselves were described as bilateral by both aid agencies and Al-Shabaab, and many aid workers felt that Al-Shabaab would have resisted efforts to negotiate collectively. This appears to have resulted in little or no information-sharing on negotiating tactics and strategies, even among agencies working at the same time in the same areas. The lack of coordinated approaches in some areas may have meant that an adept Al-Shabaab negotiator could play aid agencies off against one another to ensure more advantageous agreements. According to one aid worker, 'When asking for a fee, the first thing they were telling you was that all of the others were paying it'.[9]

Al-Shabaab's practice of singling out individual agencies for expulsion or other punitive measures, and the international media attention such actions attracted, may well have encouraged bilateral negotiations. Another powerful motivating factor appears to have been a lack of trust and suspicion among aid agencies – likely exacerbated by counter-terror measures. Given the myriad sources of pressure on aid agencies from all sides and the overall lack of coordination among them, this is not surprising. Even where senior managers were aware of the terms of agreement with Al-Shabaab (for example payment of tax), they may have been simply unwilling to reveal this to other agencies. While any other agency present probably had to submit to similar conditions, the potential consequences of being singled out – termination of funding, criminal fines or imprisonment, reputational damage – may have been too high to enable cooperation. Such behaviour is not necessarily limited to engagement with armed groups in Somalia: comparable patterns are found among aid agencies negotiating with the Taliban in Afghanistan, for similar reasons (Jackson and Giustozzi, 2012).

Predictably, little specific information about the compromises required to maintain a presence in Al-Shabaab areas was shared with donors. Agencies were more willing to report information about large-scale theft or more extreme incidents, but rarely shared information about more routine or negotiated taxation. Given the politically polarised environment, donors were compelled to impose regulations that many staff members knew would be nearly impossible for aid agencies to adhere to and still deliver promised programming.[10] Similarly, aid workers on the ground may have been required to report large-scale diversion to their superiors, but may not have been willing to disclose more routine instances of extortion.

High-level diplomatic action to facilitate humanitarian access was all but non-existent. A representative from the government confirmed that it did not engage with Al-Shabaab on humanitarian grounds, although he pointed to the government's engagement with Ahlu Sunna Waljama'a, an armed group opposed to Al-Shabaab, as productive in facilitating assistance to civilians. Calls from UN or donor agency officials for sustained dialogue and negotiation with Al-Shabaab do not appear to have been followed up with concerted action to bring about such dialogue. In the summer of 2011, as the famine worsened, a US Congressman sent a letter to the Obama administration proposing that the US take the lead in establishing 'corridors of tranquillity' into drought-stricken areas through access negotiations with Al-Shabaab. One noted Somalia expert publicly called for 'unrelenting, full-scale diplomatic pressure from

7 Telephone interview with aid worker, September 2013.

8 Interview with aid worker in Nairobi, August 2013.

9 Telephone interview with aid worker, September 2013.

10 Interviews with donor representatives, August and September 2013.

the West and the Islamic world on both Shabaab and the TFG, with the aim of securing unimpeded access to populations in need' (LaFranchi, 2011; Menkhaus, 2011: 3). Ultimately, such calls for action failed. There were more concrete collective efforts to bring consistency to aid agency engagement with belligerents, but they had little evident impact on practice. In 2009, members of the Somalia NGO Consortium agreed a set of operating principles and 'red lines' governing engagement with all parties to the conflict. These state that all parties should be informed of their responsibilities under the Geneva Conventions, and identify 'payment of taxes, (percentages of) staff salary, registration fee or other forms of payment to any armed group' and 'transfer of humanitarian goods to any party to the conflict for distribution' as clear red lines (Somalia NGO Consortium, 2009: 3). Similar efforts included the IASC 'Negotiation Ground Rules' and the UN Humanitarian Country Team Policy on Humanitarian Engagement, both introduced in 2009. As the following chapter indicates, many of the agreed 'red lines' appear to have been intrinsically unfeasible given the conditions Al-Shabaab sought to impose in the areas it controlled.

3 Al-Shabaab engagement with aid agencies

3.1 Background and organisation

Although Al-Shabaab gained greater prominence around 2006, when the ICU assumed power in Mogadishu, it had existed in inchoate form since at least 1993, and had been nurtured and inspired by al-Itihad, the oldest militant Islamist group in Somalia. Al-Itihad rejected what it considered European ideas, such as democracy and the secular state, and was organisationally woven into the Somali clan system, which provided a social base. Al-Shabaab assumed many of the same characteristics and beliefs.

The structure of Al-Shabaab has been described as 'detached' or 'decentralised', with the senior leadership *shura* consisting of individuals present from the early days of the organisation (Marchal, 2011: 5; Hansen, 2013: 9). Membership numbers and names have never been disclosed by Al-Shabaab, but Ahmed Godane is believed to lead the *shura* and acts as the group's *Amir*. Beneath the senior leadership *shura*, a larger *shura* of 35 to 45 members is believed to exist and is called upon to meet when needed. The remit of the *shura* is broad, dealing with organisational, ideological, military and political matters; decisions on some issues appear to be made by consensus, at least among the *shura*'s most senior leaders. Recent internal tensions suggest that this may no longer be the case, with some senior *shura* members complaining that decisions are increasingly taken unilaterally by Godane. One of Al-Shabaab's founders, Ibrahim Al-Afghani, complained about Godane's leadership in an open letter to Al-Qaeda leader Ayman al-Zawahiri in April 2013. He was later killed, allegedly executed by members of Al-Shabaab acting on Godane's orders (AFP, 2013).

After 2007, the rapid and considerable growth of Al-Shabaab's fighting forces has led to a more diverse membership, which the top leadership has had to accommodate. This includes foreign fighters joining Al-Shabaab in pursuit of global *jihad*, as well as local contingents and criminal elements with their own individual reasons for supporting Al-Shabaab. In 2005, the organisation had an estimated 33 core members; by 2009, it was believed to have 5,000 fighters, but determining fighting strength is a difficult proposition: as Hansen (2013: 28–29) comments, 'the exact boundaries of the group were not clear, there were sympathisers who never became members, and the organisation had allies amongst clan fighters as well as clanists and nationalists'. There are varying perspectives on the group's unity, both in command and ideological adherence, with some analysts emphasising internal tensions and the potential for fragmentation, and others arguing that the organisation has been able to overcome such issues and effectively, or at least functionally, unite its various factions. There have been disagreements over the treatment of the local population and the severity of policies implemented. Another source of tension is the organisation's roots in Al-Qaeda-linked global *jihad* versus local grievances and national aspirations.

Al-Shabaab can be best described as a dynamic organisation; it has shown significant change, organisationally, with regard to policy and to some degree structurally, in reaction to external and internal conditions. It is also remarkably bureaucratic, with detailed policies in place, if not always evenly implemented, concerning everything from religious worship to dispute resolution (Marchal, 2011). While the description and analysis of Al-Shabaab in this paper focuses on the period during which it held the greatest territorial control, it is important to consider variability over time, from the fight waged against Ethiopian forces in its early period to the subsequent expansion of territorial control and attempts to institute forms of governance to the current situation, where Al-Shabaab's territorial control has decreased and the group appears to have reverted to guerrilla tactics. Two important implications that can be drawn from this broader perspective are the group's ability to adapt and survive diverse external challenges and its ability to accommodate significant changes in membership and alliances. Both suggest a high degree

of resilience and adaptability, even in the face of overwhelming opposition.

After the ICU's defeat in 2006, Al-Shabaab regrouped and came into its own as an organisation. Yet at that point it was still one among many anti-government groups. In 2007 and 2008, Al-Shabaab pursued a military strategy characterised by hit-and-run attacks alongside targeted killings of TFG officials and others, as well as intimidation and harassment of civilians seen as 'enemies'. It exploited the weakness and corruption of the TFG, as well as widespread criminality, to its advantage. Although the extent of its popular support is debatable, where Al-Shabaab does generally receive support it does so based on its perceived lack of corruption and ability to provide security and justice[11] – in accordance, of course, with its own systems and laws. While other insurgent factions fractured it remained more-or-less united during this period. Few Somali armed groups established the degree of internal coherence and institutions that Al-Shabaab was able to achieve, though this may speak more to the comparative disorganisation and lack of cohesion of such groups than Al-Shabaab's objective strength.[12] Nonetheless, by 2009 Al-Shabaab controlled 'an area equal to the size of Denmark, with perhaps five million inhabitants' (Hansen, 2013: 72).

As it grew, Al-Shabaab became more structurally sophisticated. Beginning in 2007, it established an online presence via its own website, YouTube and Al Qaeda-linked sites and publications, later used to great effect to criticise aid agencies and announce their expulsion. Like many armed groups that come to control territory, it sought to establish systems of governance and regulation (see Weinstein, 2007; Mampilly, 2011). Various bodies, offices and positions commanding both military and political affairs were established around 2008–2009 and reconfigured over time, subordinate to and responsible for implementing the decisions of the senior leadership *shura*. It is difficult to trace the evolution and structure of such efforts with certainty, but it is widely believed that they include 'ministries' of defence, intelligence, religious affairs and orientation, the interior and information. Later on, the Office for the Supervision of the Affairs of Foreign Agencies (OSAFA) was established with a subordinate body, the Humanitarian Coordination Office (HCO), in charge of regulating aid agencies.

As Al-Shabaab assumed control of territory, a pattern emerged. Once areas were cleared of 'threats',[13] a local administration was established. Form and composition were adapted to context, with a local *shura* comprising various local constituencies and clans loyal to Al-Shabaab, or groups whose participation was otherwise required to keep the peace. By all accounts, they acted quickly to implement Al-Shabaab policy and procedures. Justice, education and healthcare, with the latter two categories entailing significant regulation and cooption of aid agency activity, were consistent areas of focus at the local level (Marchal, 2011). Unsurprisingly, aid agencies were often the first to be subject to Al-Shabaab's regulations. Marchal (2011: 72) reports that NGOs would consistently be required to 'provide their archives and any data on staff (including foreign), their budget would be checked and questions made on salaries and the like', and that equipment or supplies were often looted (and the looting justified on political or medical grounds). After the fall of Baidoa in January 2009, the 'interim administration' immediately instituted its brand of *sharia*, with the first death penalty carried out within days, and began the registration of NGOs (Hansen, 2013).

3.2 Humanitarian engagement: structure and influencing factors

The regulation of aid agencies evolved over time, although again it is difficult to trace the evolution of these structures and policies with certainty. Al-Shabaab announced the establishment of OSAFA in July 2009, with the HCO emerging soon afterwards. Al-Shabaab also put in place a system of Humanitarian Coordination Officers at regional and local level. Regulation was largely devolved to the local level, with guidance and supervision from senior levels, and most access agreements were negotiated locally. The emergence of high-level structures to regulate aid coincided with intensified pressure on aid agencies, including targeted expulsions of international agencies. This underscores two, at times competing, motivations driving Al-Shabaab's engagement with aid agencies: the desire to co-opt aid to enhance Al-Shabaab's legitimacy

11 Interviews with civilians in Jowhar, March 2013.

12 Interview with Somalia analyst, August 2013.

13 In many cases, this included killing or forcing critics or influential TFG supporters to leave the area (see Marchal, 2011).

and economic resources on the one hand, and deep suspicion, bordering on outright hostility, towards aid actors on the other. Al-Shabaab sees itself as a 'government in waiting', and as such has a desire to provide services (or be credited with their provision) and control aid distribution. In 2009, Al-Shabaab banned food aid with US flags or logos and, in some instances, schoolbooks distributed by the UN. These policies aimed to ensure that aid delivered in its areas served its interests and not those of its enemies. In some instances, it attempted to distribute cash or relief to needy people from funds collected by taxation; however, much of the service provision and aid it sought to take credit for was based on the co-option of aid agency activity.

By February 2010, Al-Shabaab had instituted an extensive taxation regime covering everything from salaries and small businesses to property rental and the use of public property. At least early on some businessmen were willing contributors to Al-Shabaab's cause; nonetheless, compulsory taxation of trade and business became widespread. After gaining control of Bakara market, for example, Al-Shabaab formed a 50-strong tax collection unit. Businesses were divided into three categories: large (taxed at $250 per month), medium ($100–150) and small ($50–100) (Aynte, 2011). Such taxes appear to have been protection-based, premised on insulating individuals from threats and violence, and taxes levied upon aid agencies were no exception. It is impossible to say how much revenue Al-Shabaab generated from taxation in general, or from taxation specific to aid agencies, but indications are that it was significant. Revenue generated included registration fees, taxation of employee salaries and fees or extortion of goods and materials to be used as part of aid agencies' projects and activities. In some instances, such levies were relatively structured, while in others they were less so and appeared more like ad hoc extortion.

The desire to regulate and benefit from aid agency activity existed alongside deeply entrenched suspicion of the aims and origins of aid agencies, reiterated publicly in statements from the leadership as well as in interviews conducted with Al-Shabaab officials. Several Al-Shabaab officials interviewed saw all agencies as potential, and in some cases actual, fronts for Western intelligence services. There was a widespread perception that food aid in particular was aimed at making Somalis dependent on the West. In some cases this fear was so deeply ingrained that local Al-Shabaab officials appeared to genuinely believe that Western food aid was poisoned and would lead to cancer.[14] Aid agencies working in Al-Shabaab areas have been under constant threat of expulsion, with many bans justified on the ground that agencies were engaged in 'espionage'. CARE and International Medical Corps were expelled from areas under Al-Shabaab control in 2008 after being accused of providing information to the United States that Al-Shabaab believed led to the killing of its first leader, Aden Hashi Ayro, in Dhusamarreeb. Similarly, in December 2009, Al-Shabaab banned the UN Mine Action Service (UNMAS). Al-Shabaab alleged that UNMAS was 'secretly hosting' and undertaking the work of organisations prohibited by OSAFA, including the UN Development Programme (UNDP). Al-Shabaab further accused UNMAS of 'bribing' elders and 'surveying and signposting some of the most vital and sensitive areas under the control of the Mujahideen' (Harakat Al-Shabaab Al-Mujahideen, 2009). The previous July, Al-Shabaab had ordered the offices of UNDP, UNPOS and the UN Department of Safety and Security (UNDSS) closed and raided UN offices in Baidoa in Bay region and Wajid in Bakool region.

While banning some organisations, Al-Shabaab permitted others to work – albeit under increasingly tight rules and regulations. With the consequences for disobedience clear, the threat of expulsion compelled agencies either to comply or to withdraw, which was seen by many as unacceptable given the scale of need. In November 2009, Al-Shabaab imposed 11 conditions on remaining aid agencies in Bay and Bakool, including payment of registration and security fees of up to $20,000 every six months, the removal of all logos from agency vehicles and a ban on female employees. Some resisted. Prior to 2009 WFP was able to establish some degree of productive dialogue with Al-Shabaab, but later withdrew from some areas under its control, citing the 11 conditions as part of the reason behind this decision. The organisation was subsequently banned by Al-Shabaab in January 2010 (MacFarquhar, 2010).

External factors, to varying degrees at different times, also influenced policy and attitudes. The 2011 famine appeared to temporarily influence rhetoric, if not policy on the ground. Al-Shabaab initially stated in July 2011 that it would allow foreign aid into its areas with 'no strings attached'. An Al-Shabaab spokesman subsequently told a British newspaper that this statement had been mistranslated, and that

14 Interview with civilian from Jowhar, March 2013.

Al-Shabaab would not allow any agency to operate that had been previously banned, specifically naming WFP and UNICEF (Pflantz and Albadri, 2011). While conceding that some areas were experiencing hunger, the spokesman denied that a famine was under way. This incident hints at internal divisions within the leadership over the presence of aid agencies. Serious tensions emerged in the spring of 2010 around efforts to centralise and consolidate the movement, with Godane seeking to centralise quickly and push for the rapid implementation of *sharia*, while others (including Abu Mansoor-Muktar Robow and prominent Al-Qaeda figures) advocated a slower pace.[15] Some of the most noted tensions around aid access appear to have been between Robow, a perceived moderate, and Godane, who was seen as more militant. Robow was described by aid agencies as playing a role in permitting access and the only figure associated with the senior leadership to regularly meet aid agency representatives or interlocutors. Robow, who hails from the most famine-affected clans in southern Somalia, is believed to have sympathised with his clan elders, who complained that Godane, who is from Somaliland, was acting abusively towards civilians.

Above all, military pressure appears to have exacerbated suspicion of aid agencies. Aid agencies were often seen as fronts for the Western states allied with the government, and the degree of military threat facing Al-Shabaab appeared to correlate to the extent of access Al-Shabaab was willing to grant. This functioned in both direct and indirect ways. Aid agencies were often banned from expanding into new, particularly contested, areas. More generally, many within Al-Shabaab simply viewed aid agencies as the civilian counterpart of a military effort against them. In the words of one Al-Shabaab official, 'whether they call themselves humanitarian or not, we know who they are: they are the civilian face of the infidel forces'.[16] A woman from Jowhar describes how 'initially they didn't ban non-Muslim agencies but later they feared that they were here to assassinate some of their leaders. Jowhar was home to some very high profile Al-Shabaab leaders, and they were worried for their security'.[17] Others described Al-Shabaab's fear of 'westerners' planting listening devices and of drone strikes.[18]

15 Interview with Somalia analyst, August 2013.

16 Interview with Al-Shabaab official from Baidoa, March 2013.

17 Interview with civilian from Jowhar, March 2013.

18 Interview with civilian from Jowhar, March 2013.

As the famine began to recede – and amid increasing pressure from AMISOM in 2011 – hostility towards aid agencies grew. Al-Shabaab banned 16 international organisations,[19] including several UN agencies, for 'illicit activities and misconduct'. Again the accusations focused on 'espionage', which included collecting information 'under the guise of demographic surveys, vaccinations reports, demining surveys, nutrition analyses and population censes'. Agencies were also accused of undermining Somali culture and Muslim values. Al-Shabaab members entered the offices of several of the banned organisations in Beldweyne and Baidoa and seized property (Al Jazeera, 2011). Former HCO officials interviewed stated that this set of aid agency bans was motivated almost entirely by security concerns, and appeared to come from the top leadership with little or no consultation with regional or local members.[20] Prior to the ban, Al-Shabaab arguably felt confident enough to manage the potential risk of infiltration by Western spies, and granted access for the political and monetary benefits of aid agency operations.[21] By 2011 Al-Shabaab had been forced onto the defensive and had become significantly less tolerant of risks.

3.3 Negotiating access

Al-Shabaab attempted to achieve some measure of structural consistency with the appointment of Humanitarian Coordination Officers. These were generally not recruited from the ranks of Al-Shabaab fighters. Instead, they were often locally recruited individuals who had demonstrated significant support for, and loyalty to, Al-Shabaab. In the case of Baidoa, a local shopkeeper supportive of Al-Shabaab was appointed as the humanitarian coordinator for the area. His cousin, a mid-level Al-Shabaab commander, initially approached him to undertake this work. In order to monitor access across various towns in the

19 The banned agencies were the UN High Commissioner for Refugees (UNHCR), the World Health Organisation (WHO), the UN Children's Fund (UNICEF), the UN Population Fund (UNFPA), the UN Office for Project Services (UNOPS), the Food Security and Nutrition Analysis Unit (FSNAU), the Norwegian Refugee Council (NRC), the Danish Refugee Council (DRC), Concern, Norwegian Church Aid, Cooperazione Internazionale, the Swedish African Welfare Alliance, the German Agency For Technical Cooperation, Action Contre la Faim (ACF), Solidarity and Saacid.

20 Interviews with Al-Shabaab officials, March 2013; interviews with aid agency officials, September and October 2013.

21 Telephone interview with former Al-Shabaab official, March 2013.

area, the coordinator deputised others to observe and report back to him. He also described remitting taxes and fees levied on aid agencies into a central 'revenue account' for the region, but had no knowledge of how these funds were spent. There are indications that Al-Shabaab's centralised system of revenue collection had begun to break down by late 2010, and in many areas taxes collected were pooled and distributed at the regional level.[22] Additional structures appear to have been established in some places, reflecting broader accommodations made with local power-holders in Al-Shabaab's governance structures. For example, an appointed Council of Elders helped oversee aid distribution and monitoring in Jowhar.

There were both benefits and drawbacks to making deals at the local level. Local officials with ties to the community were much more likely to be sympathetic to aid agencies than foreign fighters and, in many cases, the senior leadership *shura*. In some instances, local Al-Shabaab representatives were able to take decisions on their own account, but in others they had to confer with higher-level representatives. The types of decision that could be taken locally varied across the areas Al-Shabaab controlled, but it appears that such decentralised decision-making, particularly when undertaken by individuals from the areas they represented, allowed greater access in certain instances. In some areas, prior to an outright ban on vaccinations in 2011, approval was granted locally to allow vaccinations; in others, local Al-Shabaab officials sought approval from senior leaders. In the latter case, where decisions were referred upwards, permission for vaccinations was uniformly denied.

There are also consistent reports that Al-Shabaab refused to deal directly with internationals, or individuals not of Somali origin, in negotiations. Suspicions about the allegiance of non-Somalis could have driven such policies, but this may also have allowed Al-Shabaab to exert pressure on local staff members that it may not have been able to apply to internationals. Some aid agencies report being able to reach senior Al-Shabaab leaders through intermediaries in Nairobi or outside of the region. In rare cases aid agency staff were able to speak directly (often by telephone) with senior *shura* members. Where there was a lack of direct contact with the central leadership, this made it harder for aid agencies to build relationships and engage in a longer-term dialogue about Al-Shabaab's broader policies and attitudes. According to one aid agency representative: 'The core issues with Al Shabaab were always the exact ones that compromised our principles and indirect negotiations really inhibited the ability to make headway'.[23] As a result, negotiations largely focused on the details of obtaining access, ensuring aid worker safety and implementing programming.

Whenever HCO officials ascertained that an aid agency was attempting to work in their area, representatives from the HCO were dispatched to meet agency staff. Interviews with former HCO officials and aid actors revealed a relatively consistent procedure in instances where engagement with Al-Shabaab was required to secure access. Representatives from each side, usually both Somalis, met in person to negotiate the terms of access. Registration fees or other payments were generally the first and primary issue negotiated. Aid agencies usually agreed to pay negotiated fees; in instances where exemptions were granted, the agencies concerned had a longstanding presence and pursued structured engagement at all levels with Al-Shabaab. The majority provided medical care, though how far this influenced the decision to grant access is debatable.

On the one hand, local Al-Shabaab members may have valued such services for themselves and their families, particularly given the few other alternative providers available, and they may have been more inclined to view medical services as 'neutral' (in contrast to, for example, food aid). On the other hand, several agencies provided medical care alongside various other non-medical activities, suggesting that longstanding presence, strong community support and structured engagement were more important than the type of service being provided. These agencies felt that their track records and community pressure on Al-Shabaab were important in persuading Al-Shabaab to allow them to operate; in some instances, these agencies had been present during the 1991–92 famine and communities remembered the lifesaving assistance provided during that period. Structured engagement at all levels allowed these agencies to pursue a consistent approach towards Al-Shabaab and communicate clear messages about what they would and would not accept. When facing pressure to pay fees or otherwise agree to conditions that agencies felt were non-negotiable, in some instances

22 Interview with Somalia analyst, August 2013.

23 Telephone interview with aid worker, September 2013.

they suspended operations. The community's desire for their programmes to continue, and at times the support of local Al-Shabaab commanders from those communities, was an important source of leverage in subsequent negotiations.[24]

Registration fees ranged between $500 and $10,000 depending on the size, nature and location of the project as well as relations between agency staff and Al-Shabaab officials.[25] These fees were often justified on security grounds. One aid worker described being told by Al-Shabaab representatives that 'we are the government of this area and responsible for your security; unfortunately we do not have enough to pay our soldiers so you should pay us for providing protection'.[26] There were also reports of Al-Shabaab requiring agencies to hire individuals it selected. This could have been to enable Al-Shabaab to monitor the projects and/or to ensure that Al-Shabaab would be able to utilise humanitarian activities and be credited with creating employment opportunities for individuals loyal to the group.

Agencies were frequently required to complete registration forms and sign a pledge stating that they would refrain from certain social and religious activities, including proselytisation. They were instructed not to engage in any activities that would violate *sharia* law or contradict Al-Shabaab policy. Former HCO officials reported that they forbad aid agencies from engaging in any activities that empowered traditional or local leaders outside of Al-Shabaab. This rule appeared to be most strictly enforced where Al-Shabaab leaders and the community came from different clans. Agencies were also forbidden to hold meetings with the community, particularly clan elders, without prior permission, a position probably driven by fears that agencies would seek to mobilise communities against Al-Shabaab. Al-Shabaab also often prohibited agencies from making any contact with Somali women or employing them in any capacity. According to former HCO officials, women were specifically prohibited from attending public rallies or social gatherings (except those sanctioned by Al-Shabaab) and from driving cars or operating heavy machinery. One exception appeared to be in the provision of medical care, where aid agencies reported that Al-Shabaab encouraged the involvement of female doctors and nurses so that women could access healthcare services.

After registration, agencies were generally required to disclose project details. Based on the size and nature of the activity, additional taxes would be levied. According to Vilkko (2011), one UN agency allocated 10% of its project budget to Al-Shabaab in 2009. Some projects faced higher taxes than others, with construction projects being more heavily taxed than distributions of food or non-food items. Such fees appeared to be at the discretion of local authorities and were paid in kind (a portion of the items distributed, for example) or in cash. However, there were attempts by aid agencies to confound Al-Shabaab's efforts; some aid workers, for example, reported refusing to disclose staff salaries in the hope that employees would be able to avoid Al-Shabaab taxing their income.[27]

Additional conditions – such as Al-Shabaab distributing food directly – could also be imposed. In some instances, there were efforts to prevent all direct contact between aid agencies and intended beneficiaries (for example through the insistence that food distributions be carried out directly by Al-Shabaab officials or their proxies). This could have been in order to prevent aid agencies learning of aid diversion or to create employment opportunities for allies. One individual from Baidoa describes Al-Shabaab distributing food from an aid agency but claims 'they kept half or maybe two-thirds to give to their fighters'.[28] Another claimed that aid meant for one area was routinely diverted to another, with Al-Shabaab officials reportedly justifying this on the basis that 'they knew who was in real need and who was not'.[29] In such decisions, they appeared to favour individuals, groups or areas perceived as loyal to Al-Shabaab. One aid worker describes how 'they favoured those with the same ideology … you see someone with extra food or some other items and you ask how he got it, and the answer is "he is enlisted with Al-Shabaab"'.[30] Many intended beneficiaries

24 Interviews with aid agency officials, September and October 2013.

25 Similar accounts of registration fees are provided by Vilkko (2011), Hansen (2013) and Marchal (2011), which provide analysis of Al-Shabaab's broader taxation regime.

26 Interview with former Al-Shabaab official, Mogadishu, March 2013.

27 Interview with aid worker in Mogadishu, March 2013.

28 Interview, Baidoa, March 2013.

29 Interview with civilian in Mogadishu, March 2013.

30 Interview with civilian in Mogadishu, March 2013.

interviewed felt that Al-Shabaab feared outsiders witnessing the difficult conditions and suffering of civilians, particularly during the famine.

Where it did not directly control aid activities, Al-Shabaab sought to stringently monitor them. Monitoring consisted of information provided by 'spies', including individuals that aid agencies were required to employ by Al-Shabaab, and visual observation by HCO officials. Al-Shabaab often enlisted, or compelled, aid recipients to covertly or openly monitor aid work. One man from Baidoa described being approached by Al-Shabaab to monitor aid activities in the camp he resided in at the time. He was given an extra food ration as compensation but claims that he had 'no real power', explaining that he reverted back to Al-Shabaab on any decisions and was in 'constant' dialogue with an HCO representative. He was instructed to notify the HCO representative of any trouble or 'new faces' and report all activities in the camp. He told interviewers that he believed he would have been killed if he had refused to do so.[31]

Many aid agencies reported that negotiations were relatively straightforward. In the words of one aid worker, 'It never took that long or was that complicated as long as you stayed doing what you were doing'.[32] Confrontations occurred when an agency refused to register or pay fees, or if an agency had been found to have deviated from its agreed programming. Violations were punishable up to and including execution, organisational bans, imprisonment and fines. In addition to accusations of spying, there were instances where Al-Shabaab framed its punitive action towards agencies in efficiency terms. In late January 2012, Al-Shabaab banned the ICRC, stating that 'up to 70% of the food stored for distribution was deemed unfit for public consumption, posing considerable health hazard and exposing the vulnerable recipients to acute illness' (OSAFA, 2012). OSAFA stated that it was stopping ICRC food deliveries and had decided to 'terminate [ICRC's] contract permanently' (*ibid.*). Al-Shabaab then publicly burned 2,000 tons of ICRC food aid. In reality, quality concern was unlikely to have been the only, or even primary, motivation for Al-Shabaab's actions in this case. On 12 January 2012, prior to the ban, the ICRC had announced the suspension of food distributions until it could be assured that they would be 'unimpeded and reach all those in need, as previously agreed' (ICRC, 2012). The ICRC statement can be interpreted as casting aspersions on Al-Shabaab's intent and, more directly, indicating that the ICRC had obstructed Al-Shabaab efforts to divert aid.

Just as political and economic interests – probably at the core of the dispute with the ICRC – influenced implementation of Al-Shabaab policy, so did individual interests, attitudes and inclinations. Even at the height of Al-Shabaab's military power and territorial control, it was far from a monolithic movement. Al-Shabaab officials interviewed generally presented a picture of uniformity, with one individual insisting that the top leadership closely supervised the HCO to ensure that no spies were able to disguise themselves as aid workers and consistent fees were levied across aid agencies. But accounts from aid workers and civilians living in Al-Shabaab-controlled areas contradicted this. The picture that emerges from civilian accounts is one in which the enforcement of rules varied from one area to the next. Some individuals or factions were more moderate and reportedly sought to facilitate aid delivery.[33] Taxes and fees varied, as did willingness to grant exemptions from 'official policy' on humanitarian or other grounds. This allowed aid agencies some room for manoeuvre. One aid recipient described how 'if an aid agency found the cost in one location too high, some shifted the goods to another area where Al-Shabaab charged a lesser amount'.[34]

Where agencies were banned or denied permission to work, the underlying reasons were manifold, as the example of the ICRC suggests. Local aid workers interviewed felt that they had a better chance of gaining and maintaining access if their staff had links with Al-Shabaab, they paid the fees demanded and/or they unconditionally agreed to be monitored. But in general, many felt that influencing access conditions depended largely on the individuals involved. Aid agency engagement and negotiation with Al-Shabaab was an ongoing process, with weekly or in some cases daily communication. The most challenging environments appear to have been those where an alliance of factions was in control, rather than those firmly under Al-Shabaab's authority. In many such instances, negotiations focused on one delivery at a time, with agreements made one day that may not

31 Interview, Baidoa, March 2013.

32 Telephone interview with aid worker, September 2013.

33 See also Hirsch (2011) and Rice (2011).

34 Interview, Baidoa, March 2013.

have been respected the next as alliances shifted and tensions among factions waxed and waned.

A few aid agency officials and civilians were positive about some aspects of Al-Shabaab's aid regulation. Al-Shabaab officials themselves insisted that they were not 'anti-aid' as such, with one stating that 'we were always willing to facilitate genuine assistance … we didn't want the suffering of our own people. We did everything we can to help our people. The problem with western assistance is that it's always clouded in mystery and linked to governments'.[35]

In instances where civilians had positive comments, such perceptions largely stemmed from Al-Shabaab being seen to effectively monitor and distribute assistance to those most in need, and less corrupt than government institutions. However, more often than not it was seen as obstructing aid delivery. One woman told interviewers: 'we received limited aid during al-Shabaab presence … it was tightly controlled. We were often told to stay hungry for days'.[36] One man described the situation as 'horrible' and Al-Shabaab's actions towards aid agencies as 'very intrusive and abusive'.[37] The vast majority of civilians and aid workers interviewed saw Al-Shabaab's policies on aid as unwarranted, hostile and threatening.

3.4 Humanitarian engagement today

Since 2011 Al-Shabaab has been driven back from many areas once under its control. In August 2011 it withdrew from Mogadishu, and by October 2012 it had been forced from Afgoye, Baidoa and Kismayo. Some agencies have sought to re-establish a presence in parts of Somalia they had previously withdrawn from, and are under pressure from donors to work in 'liberated' areas. While Al-Shabaab has lost territorial control and revenue sources, such as Kismayo port and Bakara market, it remains present, and still has significant ability to infiltrate areas provisionally under AMISOM control, launch hit-and-run attacks and strike at high-profile international targets, as attacks against the UN compound in Mogadishu and others have demonstrated. In February 2012, Al-Shabaab announced a formal alliance with Al-Qaeda. Al-Shabaab's links with Al-Qaeda are longstanding, and the implications of this announcement are unclear. Some analysts posit that it may have been a tactic to gain greater international financial support – albeit one that may have alienated more nationalist factions with little interest in global *jihad* (International Crisis Group, 2012).

Al-Shabaab continues to exert pressure on aid agencies, but the erosion of its governance structures and increased internal volatility have created a more unpredictable operating environment. According to one aid worker: 'In former Al-Shabaab areas the Somali National Government is nominally in power but Al-Shabaab still has its powers of infiltration. They know everything: who's there, who's doing what and so on … They have stated that even if they have left, the rules will be the same.'[38] Such messages are communicated indirectly, for example in preaching at mosques, but in some cases direct pressure remains. Al-Shabaab orders aid agencies to obtain its permission to operate, including registration and fees, where it has enough influence to do so. Interviews however indicate that arrangements are now more ad hoc. Negotiations are not conducted through the HCO, which appears to have been disbanded or to be effectively defunct, but in a largely uncoordinated, intermittent and unstructured fashion. Several aid agencies with previous links to Al-Shabaab said that they maintained them; one aid worker stated that, in a main town formerly occupied by Al-Shabaab, his agency now worked with the government but continued to liaise with Al-Shabaab just 40km away. Others reported that the security situation had become precarious and they no longer knew who to speak to in certain areas where control of territory was ambiguous.

35 Telephone interview, March 2013.

36 Interview, Jowhar, March 2013.

37 Interview, Jowhar, March 2013.

38 Telephone interview with aid worker, September 2013.

4 Conclusion

Humanitarian engagement with Al-Shabaab is fraught with challenges and moral dilemmas. As Hugo Slim (1997) writes, such dilemmas for aid agencies are often a choice between two wrongs. There are several ways in which one can respond to such dilemmas. One is to simply view them as a no-win situation, in which any choice will be wrong. However, in the face of such difficult choices, it is 'also possible to do something which, while not right, is perhaps the best thing to do in the circumstances' (*ibid.*: 5). In south-central Somalia, aid agencies were placed in an impossible situation, facing demands from all sides that threatened their integrity and ability to help those in dire need of assistance. The choices that agencies were forced to make provided few 'right' options, particularly during the famine. However, some tactics and approaches did enable aid agencies to access Al-Shabaab areas, at least for a time, in a more principled manner and provide critical assistance to civilians living under the group's control.

Despite pervasive attempts to divert or co-opt aid, aid agencies did not simply give in to Al-Shabaab's demands. Those agencies that succeeded in remaining in areas under Al-Shabaab's control, and which appeared to avoid paying fees or ceding control of their programming, pursued rigorous, structured engagement with the group at all levels, from the senior leadership *shura* to ground-level fighters. They allocated significant resources and time to understanding the group, developing relationships and pursuing dialogue. Indeed, comprehensive dialogue with Al-Shabaab at all levels appeared to be the single most important action aid agencies could take to reduce the risk of diversion and improve the prospects for long-term access to areas under its control.

Such agencies, perhaps because of the internal communication and structured engagement that was pursued, were more effectively able to communicate consistent messages and adhere to the 'red lines' beyond which compromise was not viable. At times, this meant confronting Al-Shabaab and temporarily withdrawing from areas under its control. Structured engagement did not therefore guarantee access, but it does appear to have been, as Slim (1997) might categorise it, the 'best thing to do in the circumstances'. In order to work effectively in areas under Al-Shabaab control, the best prospects appear to lie in significant investment of time and resources to develop a structured strategy for engagement, staff training and support and building relationships and cultivating dialogue with all parties to the conflict.

Other agencies appeared to accept difficult constraints and compromises in order to reach civilians in need of lifesaving assistance, particularly during the famine. Where such compromises resulted in the payment of registration fees or the monitoring of programmes, it is clear that many agencies saw this as necessary in order to prevent people from starving to death and to provide access to lifesaving medical care. But such compromises were problematic. In some instances they resulted in new dangers, most notably the significant transfer of risk to national staff. This is particularly true where such negotiations were undertaken in an ad hoc manner by local staff and where aid agencies had no structured strategy for engagement at all levels. Some simply found the cost of doing business with Al-Shabaab intolerable, and withdrew from areas under its control; others were attacked and banned by the group, leaving them little choice but to discontinue work.

The reasons why many aid agencies simply chose not to, or were unable to, engage in a structured or deliberate way with Al-Shabaab are understandable. Aid agencies operating in Somalia are forced to contend with political pressure applied by donors and compelled to deal with complex and confusing legal restrictions regarding engagement with Al-Shabaab. The politicisation of assistance by donor governments was ultimately self-defeating. Counterterror restrictions appear to have increased bureaucracy more than genuine oversight. Alienating Al-Shabaab left little leverage for diplomats or donors to draw upon when seeking to engage it on humanitarian concerns. The restrictions also inflicted further damage on the image of aid agencies among local populations and armed groups, already suspicious of their motivations and allegiances, hindering their ability to work safely and effectively. Humanitarian space in Somalia has long been constrained by the

political economy surrounding aid, and Al-Shabaab was hardly unique in its efforts to co-opt and extort aid agencies. The attention paid to diversion that may benefit Al-Shabaab was disproportionate to that paid to diversion by other actors.

Much more could have been done by those in leadership positions within the humanitarian community to take a principled stand on engagement with Al-Shabaab, both in dialogue with the Al-Shabaab leadership and also in pushing back on harmful counter-terror restrictions. Individual agencies that pursued bilateral engagement with the Al-Shabaab leadership were able to secure greater guarantees of access than those that did not. It is unclear whether the humanitarian leadership within the UN or collectively on behalf of NGOs could have achieved similar guarantees had it attempted dialogue with the Al-Shabaab leadership, but such attempts do not appear to have been made systematically. Above all, greater information-sharing and collaboration among aid agencies in addressing the factors that limited access, including counter-terrorism restrictions, would have been more effective than the often disconnected and ad hoc efforts that were ultimately made. The Somali government could have played a vital role in helping the humanitarian community navigate the complex environment as the worst part of the famine was unfolding. The lack of national policies in this area has only compounded the problem.

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