



## Working Group on Protection of Humanitarian Action

First meeting: Geneva, 29 September 2016

### Summary Note

Acts of violence affecting the delivery of aid are frequent in humanitarian settings, such as recently in South Sudan, Syria, Yemen or Afghanistan. They include physical attacks on aid workers, bombing of health facilities, attacks of humanitarian convoys, but also numerous lower profile incidents, less spoken of, affecting local or international staff, including threats, kidnappings, and robberies. Humanitarian organizations and practitioners in the field face mounting tensions between their ability to maintain access to populations in need, and to ensure the safety and security of their staff in a context of complex and protracted conflicts.

While humanitarian organizations find practical, field-based ways to “cope” with such contexts, these adaptations fail to address the overall deteriorating environment for humanitarian action in conflict settings. Speaking out against attackers is often very sensitive for all concerned actors, especially when individual victims and operations are at risk on the ground. In the absence of effective means or mechanisms of law enforcement, impunity characterizes the follow up of such incidents at the national and international levels. Hence the feeling often expressed by practitioners of “a new normal”.

In view of this situation, ATHA, as part of its work done to build operational capacity, facilitate learning across organizations in the humanitarian sector, and to mobilize change through communities of practice, and Action Contre la Faim (ACF), as part of its broader campaign for the protection of aid workers, have partnered to bring together practitioners to address the issue of the lack of protection of aid workers.

This note serves to summarize the key points from the first meeting of this Working Group on the Protection of Humanitarian Action, which was held in Geneva, Switzerland on 29 September 2016 at the Centre for Humanitarian Dialogue. The meeting aimed to foster a community of concern engaged in discussing and developing new and collaborative approaches to address these issues, where traditional approaches to humanitarian operations, international humanitarian law, access, and proximity to vulnerable populations are being challenged. Intended as the pilot for the development of a longer term Working Group, this meeting was convened to discuss this supposedly “new normal” and encourage peer dialogue and reflections on current professional challenges around the protection of humanitarian action, with the aim of facilitating a more protected and respected environment for the delivery of principled humanitarian aid to populations in need, including through the exploration of concrete measures to encourage greater compliance with the law and respect for humanitarian action among States and in international fora. The 17 participants of the meeting were senior professionals working for operational and research NGOs, coordination agencies and research institutions.

### I- ATHA Policy Note

ATHA developed a policy note based on background research and interviews with experts and practitioners, including many members of the Working Group. The Note, which outlines key dilemmas and challenges

around the protection of aid delivery, was presented and discussed during the meeting (available [here](#)). Here are a few highlights:

- a) Difficulties in defining the terms and scope of the problem:
  - Diversity of actors involved in and around humanitarian assistance – who should be protected when assistance is not only delivered by neutral actors, but also by Governments, warring parties, political and religious groups or development actors?
  - Growing number of conflicts and people in need of humanitarian assistance, coupled with an increase of security incidents and access problems, which tends to “re-victimize” already affected civilians by denying them access to aid – how to quantify whether the number of incidents is growing disproportionately and is such a comparison relevant?
  - Debates between the protection of humanitarian aid workers and the protection of civilian populations – **should humanitarian aid workers be considered as part of the civilian populations they serve, or are they in need of special protection by virtue of their unique role? Should advocacy efforts focus on the protection of humanitarians, or civilians more broadly?**
- b) Tensions between individual and collective action: interplay between the collective nature of insecurity and of the deteriorating environment for the entire humanitarian community, versus the tendency toward insularity in security management, response to incidents and related advocacy.
- c) The need to further explore motives and incentives underlying attacks against humanitarian actors: violence affecting aid delivery occurs in some circumstances, and not in others. While one can at times blame attacks on a misunderstanding of humanitarian actors’ mission and identity, many attacks are also carried out by actors who understand very well what humanitarians do and who they are. Motives can be about taking a political stance against certain values or actors. However, motives are not always strategic, and may be criminal or economical – **why is aid under attack, and how can we understand perpetrators’ motives and chance incentives instead of only adapting/submitting to this “new normal”?**
- d) Demystifying the role of the principles in ‘protecting’ humanitarian actors: the need to disentangle external explanations of insecurity (changing conflict environments, erosion of respect for IHL, militarization, perceptions by non-state armed groups) from internal explanations (nature of humanitarian operations, behaviors and perceptions in the field).
- e) Legal protection and impunity: widespread impunity for violence against aid delivery, despite clear prohibitions under international law, especially for Red Cross/Red Crescent affiliates, health workers and UN staff – **how do we enforce existing legal protections and apply them to all humanitarian workers?**
- f) Reluctance to speak out and advocacy challenges: repeated condemnation of attacks remain ineffective, while some incidents are dealt with in silence; need to weigh the risks and rewards of advocacy, and the cost of silence. The humanitarian community expresses frustration over the lack of more impactful joint messaging to bring about higher level policy and practice change, especially when incidents happen.

## II- “Breaking the silos”

- a) Growing tension between enabling programming and keeping staff safe and secure: Although the majority of incidents occur in just a few countries, **is the global attitude of humanitarians toward acceptable risks changing, and are we becoming risk-averse?**
- b) Silos needs to be broken between security personnel and policy, advocacy and protection experts: While security personnel from various organizations, often with a military background, share

information, the rest of the humanitarian community lack sufficient access to the information or do not seek that information because “security is somebody else’s problem”. On the other end, those knowledgeable about IHL are typically policy and protection people, who are not included in the protection of humanitarian personnel or the follow up of incidents. Focusing on the protection of civilians, they should also have the protection of humanitarian action in their portfolio, which would help prevention, and the creation of a more enabling environment for aid delivery. It could also help trigger legal proceedings following incidents – **how can we protect people affected by conflict, if we do not prioritize the protection of our own staff at all organizational levels?**

- c) Implementing IHL for all: International humanitarian law (IHL) clearly prohibits attacks against humanitarian aid workers, yet perpetrators of such attacks have enjoyed widespread impunity in practice. Additionally, while some categories of aid workers are granted special protection – namely Red Cross/Red Crescent affiliates, health workers and facilities, and (by Convention) UN staff – most receive general civilian protection under the law. In the aftermath of incidents, attention is generally focused on the immediate crisis management, not on justice and fighting impunity, which results in a situation where perpetrators are not held accountable for violations of IHL. There is therefore a need to explore options for using domestic and international legal systems to pursue accountability for perpetrators of attacks against aid workers. The complexities inherent in seeking accountability for IHL violations (especially in contexts with weak legal mechanisms) make it difficult to pursue justice, given also that the legal and political implications of doing so make it difficult to persevere. This is especially the case for organizations that are neither States, nor the ICRC (though even they face great difficulties). Rather than falling into a “someone else’s problem” mindset, participants expressed that international humanitarian law is everybody’s problem, especially for those first affected by attacks in their everyday work.

### III- “Demystifying humanitarian principles”

- a) Understanding the principles in a new environment: As the security environment became more critical after 2001, there was a tendency in some organizations to radicalize the use of principles, as a protection mechanism. However, being principled is not a security measure. **Humanity** and **impartiality** are substantive principles and values, not tools for access or security concepts. **Neutrality** and **independence** can be more readily used as operational tools, but neutrality can also be problematic. Sometimes, attacks occur because humanitarians are neutral (i.e. providing aid to the other side). Other times, humanitarians are attacked because of something happening on the other end of the globe. Perceptions of humanitarians’ role and identity sometimes have little to do with their behavior in the field where attacks occur, but can largely be influenced by the world’s politics. When incidents occur, or when access is denied, it may be hard to distinguish between external and internal causes, or local and global decisions as contributing to violent incidents. Incentives for not attacking humanitarian actors should be highlighted and leveraged.
- b) The challenges to apply humanitarian principles in protracted crises: While humanitarian action was traditionally conceived as immediate and life-saving, noting the complexity and protracted nature of many conflicts today, it is now more politically transformative, which multiplies the risks. Additionally, various organizational mandates, and multi-mandate organizations, sometimes make it difficult to determine the line between humanitarian and development work, which has implications for the application of the humanitarian principles. Many religious or diaspora NGOs have no interest in being impartial as they were set up to support specific communities. In other cases, attacks occur because humanitarian action is seen as countering the interests of belligerents, who consider humanitarian actors as parties to the conflict.
- c) Beyond humanitarian principles – mainstreaming a security culture: In today’s context, security is not just a technical issue delegated to technical experts, but needs to be integrated into contextual analysis and program planning. Humanitarians need to mainstream a security culture in their

organizations, from the leadership level on down, with a focus on accountability. In the field it translates into being able to respect rules, but also understanding the challenges for potential perpetrators. Acknowledging humanitarian actors are part of a given conflict eco-system is important, especially as conflicts today are about values, which humanitarians can become associated with. New analyses, and sometimes new programmatic solutions (including through new technologies) are necessary to access people in need.

#### IV- A call for collective advocacy

- a) Costs and effects of advocacy: Action Contre la Faim (ACF) presented their experience pursuing advocacy and accountability for the massacre of their staff in Muttur, Sri Lanka, 10 years ago. They described shifts in organizational decision making within the organization around how to pursue accountability, how or whether to engage in domestic and international advocacy, and when to leave the country. They noted that the criteria for considering engagement in advocacy are **relevance, opportunity, added value, and capacity**, and explained how their experience with the Muttur case led them to pursue the Protect Aid Workers (PAW) campaign globally. Exploring the risks for organizations of speaking out after attacks shows immediate risks for individual victims, beneficiaries, local staff, partners, possibility of lawsuits, harassment or kidnappings. Yet the risks of “silence”, impunity and accepting “the new normal” are of a longer term nature and include a loss of faith from humanitarian staff, partners and beneficiaries, who no longer feel protected by their organization and the humanitarian system. This also has consequences for potential perpetrators of violent acts and has a terrible impact on the rise of impunity and the erosion of IHL – if international norms are not persuasive, **how do we change the incentives to deter potential perpetrators from attacking humanitarian action?**
- b) Need for collective and innovative engagement: There was a large call for concrete action to change the global environment, within the working group and during the various preparatory meetings and interviews. The idea of creating a community of practice and further engagement in advocacy to influence positive changes was considered highly pertinent, with several proposed ways for the group to have a valuable contribution in complementarity with existing mechanisms. Gathering various types of personnel in their respective organisations (security, policy, programming, coordination, legal, and advocacy), the group can be helpful in overcoming the ‘siloing’ of security actors from others. There was a proposal to design a methodology for decision makers to address the tension between advocacy and security following attacks, and to complement the technical aspects of security. It was also proposed to examine alternative methods and means of access through the lens of protecting aid delivery on the global level. A recurring theme was that operating environments are changing, and that humanitarians must adapt as well, not only through security “fixes” but also with stronger analysis and innovative methods to understand contexts and to then influence positive changes in the eco-system.
- c) Proposed activities: Participants proposed a number of potential measures which could be of value to address the problem, including:
- **Training** – the development of trainings for humanitarian practitioners on IHL, humanitarian principles, negotiation
  - **The creation of new platforms for information sharing** – (e.g. mailing list, microsite, blogs), where practitioners and experts could share ideas, research questions, publications, events and information on current initiatives. However, this should not duplicate existing platforms.
  - **Research topics** – data collection and analysis (collective analysis of trends); defining the terminology (defining ‘humanitarian action’, ‘protection’); incentives for violence against or the protection of humanitarian actors (e.g. for states, armed groups); future trends and contexts

(adaptation/transformation); the role of leadership in operations and protection, the implications of changing operating environments for security; the implications of militarization of the humanitarian action; the humanitarian impact of different types of weapons used; the effectiveness of alternative or unconventional security and advocacy strategies.

- **Outreach** – to avoid isolation and build the community of practice, it is seen as important to reach out to other actors (including other humanitarian actors in the field, as well as Member States, donors, militaries, private security companies, intelligence services, and armed groups)
- **Advocacy and Policy** – participants expressed the desire for more effective collective advocacy, but also to keep internal the decisions about how to manage individual incidents, whether to speak out, etc. Proposals to strengthen individual and collective communication and advocacy around this issue, and to build common messages between organizations, included:
  - Creating a system for follow up on violations, investigation and reporting, e.g. through an annual report of violations, cases and trend analysis;
  - Naming a “rapporteur” on protection of humanitarian action to represent the group/civil society during high level meeting and decision making spaces;
  - Creating a global compact on humanitarian values (humanitarian principles), with reference to the legal framework (IHL, IHRL and others), with an action plan.

## V- Next steps

In light of the discussions summarized above, this first meeting of the Working Group thereby served to convene practitioners and experts to bring high-level dialogue on operational, policy, legal and advocacy challenges of the protection of humanitarian action. This professional exchange served to highlight key tensions and challenges facing humanitarian actors in insecure environments. It also served to identify needs for further exchange of information and perspectives of joint advocacy, further training and professional development opportunities, and research.

As an immediate next step, ATHA and ACF hereby share the summary of the workshop, and propose the organization of a follow-up **virtual meeting** (via skype/web-conferencing) in **November 2016**. The purpose of this meeting will be to:

- Define the roles and mandate of the Working Group;
- Identify key themes of focus and proposed activities for 2017, including advocacy opportunities and targets as well as possible areas of cooperation or complementarity between our agencies, guided by practitioners in the Working Group and supported by ATHA research and training;
- Discuss other opportunities for engagement, including future in-person gatherings.

Further details on this meeting and agenda will follow.