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BREAKING THE SILENCE

Lessons from humanitarian access negotiations under counter-terrorism legislation in north-western Syria

Lena Schellhammer

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Abstract

Access negotiations between humanitarian actors and Non-State-Armed Groups (NSAG) controlling a certain area are a necessary precondition for providing humanitarian assistance to affected populations in that area. However, in practice, there has only been minimal support for humanitarians doing so, and the topic is rarely openly discussed, especially when humanitarian access needs to be negotiated with designated "terrorist" groups that are sanctioned by counter-terrorism legislation. This working paper fills this transparency gap by showcasing the humanitarian access negotiations with Hay'at Tahrīr al-Shām (HTS) and its local governance institution, the Syrian Salvation Government (SSG), in north-western Syria. Based on a general analysis with the help of the micro-politics theory by Michel Crozier and Erhard Friedberg (1979) and the power-dependence theory by Richard M. Emerson (1962), this paper outlines the implications of counter-terrorism measures on humanitarian actors' ability to pursue these negotiations. First and foremost, they trigger a culture of silence that results in a generally weakened humanitarian negotiation position. However, they also foster problematic humanitarian negotiation strategies like the involvement of intermediaries and the threat to suspend humanitarian assistance. The paper concludes that, besides the use of so-called power networks, especially an enhancement of information exchange and an open culture of debate on individual strategies to humanitarian negotiations, are the most promising solutions to overcome the dilemmas posed by counter-terrorism measures to humanitarian access negotiations.

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1. Introduction

For humanitarian actors, negotiating with so-called "terrorist groups" to secure access to civilians in need in areas under their control is a significant challenge because it represents a legal grey area, especially since 2001. After the attacks of 9/11, United Nations Security Council Resolution 1373 marked the cornerstone of current counter-terrorism legislation implemented by the United Nations (UN) and its member states. It intended to combat and counter terrorism by preventing and suppressing the financing of designated "terrorist" groups (United Nations Security Council 2001). However, the resolution was adopted without including an objective and internationally-accepted definition of the term "terrorism". It simply declares that states shall "criminalize the wilful provision or collection, by any means, directly or indirectly, of funds by their nationals or in their territories with the intention that the funds should be used, or in the knowledge that they are to be used, in order to carry out terrorist acts" (United Nations Security Council, 2001: 2). The lack of a comprehensive and universal definition leads to the fact that the term "terrorist" or "terrorism" is open to normative connotations, associations, motives and characteristics. Consequently, the term is not only used to justify, for example, military strikes against those declared to be "terrorists", but also for tactical reasons, political purposes and the de-legitimisation of various non-state armed groups (NSAG) (Bhatia, 2005: 12; Finlay, 2009: 752 et seq.; Glaser, 2005: 8).

The arbitrary designation of certain non-state armed groups as "terrorist" groups by governments has significant impacts on the working environment of humanitarian actors. For example, the provision of training, expert advice and assistance, as well as personnel and transportation to "terrorist" groups controlling humanitarian operating areas – which may be necessary in the course of humanitarian access negotiations – is at risk of being framed as providing direct or indirect support to "terrorist" groups as described in resolution 1373 (Roepstorff, Faltas, and Hövelmann 2020) – and hence can be sanctioned. In countries like the United States, fines and imprisonment can be the consequences (Burniske et al., 2014: 3 et seq.). Scholars classify this development as "ironic" and argue that it is "increasingly clear – even for the governments imposing these restrictions – that engaging with these groups [NSAGs] is politically and practically necessary" for humanitarian actors that want to work in NSAGs-controlled areas (McQuinn & Oliva, 2014: 4). In other words, governments and donors criminalise the engagement with NSAGs classified as "terrorist" groups, although they are aware that engagement with these groups is required to ensure and maintain humanitarian access and to deliver highly needed humanitarian assistance.

Figure A:
Infographic Syria.
Source: Centre for Humanitarian Action.

SYRIA

👤 17 million in total in 2019
4 million in northwest Syria

💬 Arabic

🏙 Damascus

Source: Wikimedia

11.1 million people in need of humanitarian assistance
Source: USAID (2021)

6.7 million Internally Displaced People (IDPs)
Source: USAID (2021)

2.7 million displaced people living in northwest Syria
Source: USAID (2021)

1.302 active IDP sites in northwest Syria
Source: OCHA (2021)

1.6 million displaced people living in IDP sites in northwest Syria
Source: OCHA (2021)

Violations of the humanitarian principles result in serious consequences for those living in territories under the control of designated "terrorist" groups.

Generally, humanitarian actors are normatively guided by the humanitarian imperative and the humanitarian principles of impartiality, neutrality and independence. However, their working environment is more and more restricted by counter-terrorism norms and measures. In Nigeria for instance, every humanitarian actor that receives funding from USAID has to ensure to exclude those from benefitting its activities who "have been formerly affiliated with Boko Haram or ISIS-West Africa as combatants or non-combatants" (Anyadike 2019). In addition, the Dutch government restricts "travel – without Dutch government permission – to areas it designates as controlled by 'terrorist' organisations" (Hofman 2019). Hence, although counter-terrorism legislation is just one of the many factors that guide the implementation of humanitarian assistance (Quack 2018), ultimately, humanitarian actors are forced to base the selection process of where to deliver their assistance not only on the humanitarian principle of impartiality, i.e. the greatest needs, alone, but also on the basis of donor regulations and political constraints. Such violations of the humanitarian principles result in serious consequences for those living in territories under the control of designated "terrorist" groups (Hilhorst and Desportes 2019) as they might be excluded from assistance despite high needs and vulnerability.

To date, there are only a few analyses on specific NSAGs and humanitarian interactions with them. Humanitarian literature mainly provides handbooks and field manuals regarding the negotiation of humanitarian access in general. Beyond this background, and with reference to the increasing importance of counter-terrorism legislation in humanitarian access negotiations, this working paper analyses the humanitarian access negotiations in north-western Syria with Hay'at Tahrīr al-Shām (HTS) with a special emphasis on the influence of counter-terrorism measures.

The example of the Syrian war is highly illustrative for the increasing difficulties and challenges in the day-to-day interaction of humanitarian actors with NSAGs in light of counter-terrorism legislation. Firstly, humanitarian actors have faced hundreds of NSAGs in Syria. Of those, President Bashar al-Assad has declared nearly all NSAGs in opposition to his government as "terrorists". The United States and Turkey, too, have declared certain NSAGs as "terrorists". At the same time, there are 11.06 million people in need of humanitarian assistance spread across territories controlled by these and other conflict parties in Syria (UN-HCR, 2020: 1). However, reaching people in need in Syria is not easy as many conflict parties, including the government, cause severe humanitarian access constraints, for example through ongoing military operations and hostilities that prevent the distribution of humanitarian assistance, restrict movement, interfere with the implementation of humanitarian operations and commit violence against humanitarian personnel and facilities.

In north-western Syria – which is often described as the "last rebel strong-hold" – 78% out of 69 humanitarian organisations experienced such access constraints in 2019 (UN OCHA, 2019b: 2, 4 et seq.). Most of these constraints are connected to Hay'at Tahrīr al-Shām (HTS), a predecessor of Jabhat al-Nusra and one of the most important NSAGs in north-western Syria. By absorbing several smaller NSAGs, as of time of the study, it controlled up to 65% of the north-western territory and therefore is one of the key players that needs to be considered when planning and implementing humanitarian assistance in the area – and the humanitarian need in the area is immense: of the three million civilians in the governorate of Idlib (mainly controlled by HTS) two million urgently need humanitarian assistance. Hence, interaction with HTS to secure humanitarian access to these areas and populations is considered absolutely essential. At the same time, owing to its increasing use of violence towards civilians and accusations of being the extended arm of the "terrorist" network al-Qaeda, HTS has been declared to be a so-called "terrorist" group by the Government of Syria, as well as by the USA and Turkey in 2018. Hence, HTS is a highly interesting example of the need for humanitarian-NSAG interaction and negotiation against the background of counter-terrorism legislation.

Looking deeper into this, this working paper describes how negotiations on humanitarian access with HTS in north-western Syria work and evolve (section II). On this basis, it outlines the impact of counter-terrorism measures on humanitarian actors' ability to pursue these negotiations (section III). The paper closes with a conclusion (section IV) including recommendations for an enhanced humanitarian negotiation position in future humanitarian access negotiations in Syria and elsewhere. However, before turning to section II, first some further background on the concepts, methodology and theory used in this paper as well as on the broader Syrian context.

1.1 Definition of concepts

While neither a precise nor a commonly accepted definition of NSAGs exists, this working paper uses the definition by Ulrich Schneckener and Claudia Hofmann, who define NSAGs as:

> "distinctive organizations that are (i) willing and capable to use violence for pursuing their objectives and (ii) not integrated into formalized state institutions such as regular armies, presidential guards, police, or special forces. They, therefore, (iii) possess a certain degree of autonomy with regard to politics, military operations, resources, and infrastructure" (Hofmann and Schneckener, 2011: 2).

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populations in need.

This definition includes not only the use of violent tactics to achieve (political) objectives but also emphasises NSAG's agency, i.e. the fact that NSAGs have a certain freedom of action and exercise control over people and/or a particular territorial space. These criteria are important to analyse NSAG's negotiation behaviour against the background of the micro-politics theory by Michel Crozier and Erhard Friedberg (1979) and the power-dependence theory by Richard M. Emerson (1962), explained below.

Because of their number, complexity and diversity, NSAGs present a range of challenges for humanitarian operations, especially in Syria. However, as already explained above, not engaging with them is hardly possible. The control of territories and the running of quasi-state functions compel humanitarian actors to interact and/or negotiate with NSAGs in order to gain safe access to the populations in need within the respective territory and to effectively and safely deliver humanitarian assistance, thus maintaining the humanitarian imperative (Keating & Lewis, 2016: 2). Hence, gaining humanitarian access is one of the most important objectives and reasons for interaction/negotiation with NSAGs.

Herein, *humanitarian access* is understood as:

> "access by humanitarian actors to people in need of assistance and protection and access by those in need to the goods and services essential for their survival and health, in a manner consistent with core humanitarian principles." (Federal Department of Foreign Affairs (FDFA), 2014: 11)

Humanitarian negotiations on the other hand, are defined as:

> "a set of interactions and transactions with parties to a conflict and other relevant actors aimed at establishing the presence of humanitarian agencies in conflict environments, ensuring their access to vulnerable groups, and facilitating the delivery of assistance and protection activities. These negotiations take place at field level for the most part and involve both state and non-state actors" (Centre of Competence on Humanitarian Negotiation (CCHN), 2018: 15). They are context-dependent and often take place in a highly confidential environment.

Scholarship points out that NSAGs cooperate with humanitarian actors because they are so-called "governments-in-waiting" that provide services to their populations and mainly want to gain political legitimacy through service provision with the help of humanitarian actors. Alternatively, they might perceive humanitarian actors as adversaries and part of the conflict (Keating & Lewis, 2016: 2). Hence, the in-depth analysis of the internal structures, motives, norms and beliefs of specific NSAGs is indispensable for humanitarian actors to prepare negotiations and to assess strategies and risks. This includes knowledge about NSAGs' willingness to interact and to negotiate directly or indirectly with humanitarian actors as well as about their general trustworthiness (Breitung, 2015: 24).

In practice, there has only been minimal support for humanitarian actors in negotiations with NSAGs, especially with those being designated as "terrorist" groups. Thus, humanitarian actors in the field in particular are often omitted from trainings, despite they are often at the frontlines of negotiations. However, the Centre of Competence on Humanitarian Negotiations is lately increasing their trainings and workshops on humanitarian negotiations. A vivid debate has emerged around the subject as, at the same time, recent political regulations have further aggravated the position of humanitarian actors (see for example Anyadike 2019; Hilhorst and Desportes 2019; Hofman 2019; Mackintosh and Duplat 2013; Norwegian Refugee Council 2018). This paper takes up this debate and contributes insights from humanitarian-HTS negotiations on humanitarian access in north-western Syria.

1.2 Methodology and theoretical background

The following analysis is based on empirical data collected during field research in Gaziantep, Turkey, in July 2019. The author conducted 17 interviews (herein referred to as I1 to I17), including project managers, security managers and executive directors from local and international NGOs as well as from International Organisations operating in north-western Syria.[1] The interviews covered four conceptual areas: (i) the negotiation environment, (ii) participating actors, (iii) actors' objectives and strategies and (iv) leverages.

The anonymised interviews were analysed on the basis of the micro-politics theory by Michel Crozier and Erhard Friedberg (1979) and the power-dependence theory by Richard M. Emerson (1962). These two theories are particularly suitable for this analysis because they consider that humanitarian negotiations not only imply a set of interactions and transactions between parties actively participating in a conflict and other relevant actors, but also a power relation among them. Doing so, both theories emphasise that power is a relation and not an actor's attribute. Following this argument, power can only express itself – and thus become mandatory for one of the opponents involved – if it comes into play in a relation that binds two or more actors to one another. This means, for instance, if an actor A and an actor B have the same trump cards and therefore equal values are exchanged, there is no reason to claim that one of them is in a position of power vis-à-vis the other; therefore no power relation exists (Crozier & Friedberg, 1979: 41 et seq.). Both theories underline that individual objectives can only be pursued by cooperating and competing with another actor who again pursues his/her own objectives. Applied to the context of this paper, this means that humanitarian actors must enter relations with HTS to achieve their objective of safeguarding the humanitarian imperative as well as ensuring and maintaining humanitarian access to populations in need. Since this relation does not usually result in the exchange of the same trump cards, it is a power relation in which humanitarian actors and HTS must negotiate in order to achieve their individual objectives.

Power is a relation and not an actor's attribute.

1.3 The Syrian context

Soon in its eleventh year, the Syrian war is one of the largest humanitarian crises of the world, with 11.06 million people in need and 4.65 million people in acute need (UNHCR, 2020: 1). To meet these extensive needs, humanitarian assistance is currently distributed via Damascus or remotely through UN-humanitarian cross-border operations (UNSCR 2165).[2] The latter was originally implemented in 2014 after the Syrian government had obstructed humanitarian access to areas outside its control through administrative hurdles and access refusal for deliveries and staff for more than three years. Another reason for implementing cross-border operations from Turkey, Iraq and Jordan (also referred to as remote management) was the fact that "'withholding aid to opposition areas has [...] become a military strategy for the government aiming to defeat 'terrorists' [...] and a means for forcing oppositional armed groups to surrender with no regard for the consequences for civilians in these areas" (Meininghaus, 2016: 9).
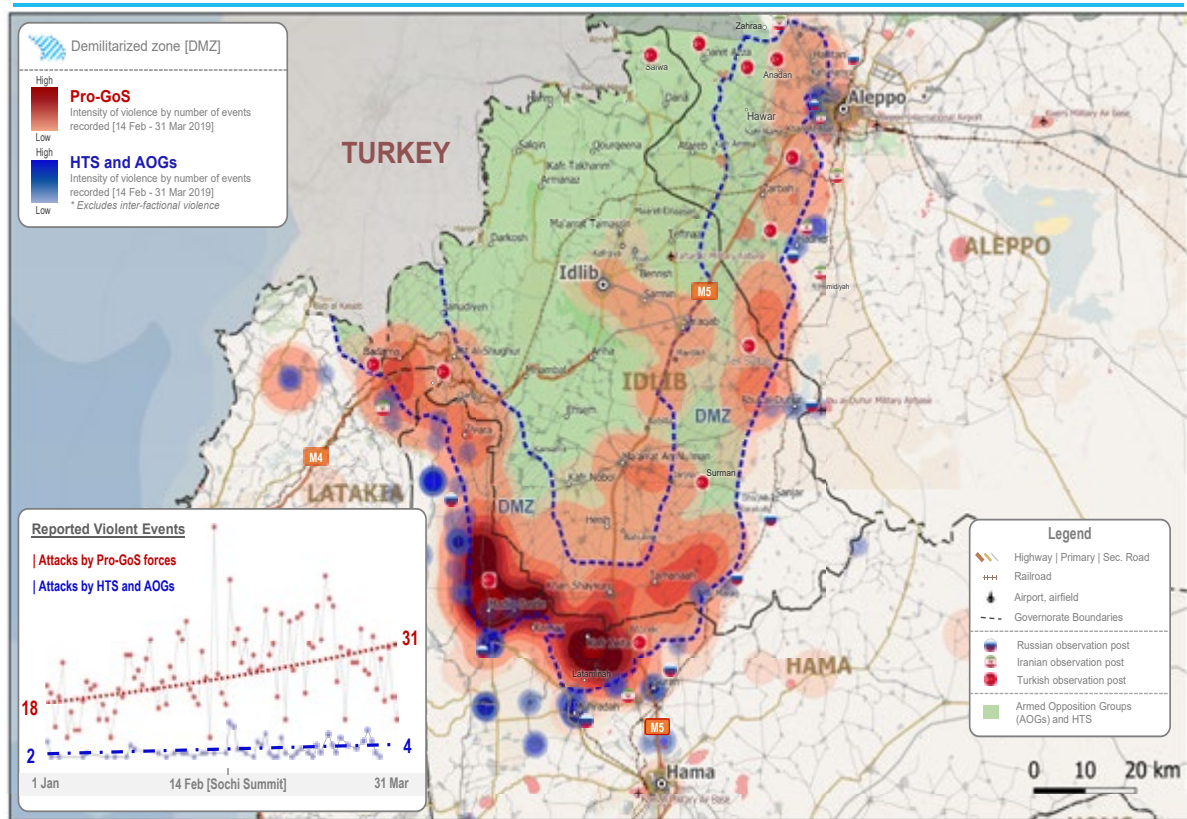
With the granting of the cross-border resolution, international NGOs relocated to Turkey and Jordan and strengthened their partnership with Syrian NGOs via remote management. In parallel, on the ground in Syria, the vast humanitarian needs resulted in the formation of several Syrian organisations such as informal and local groups, (unregistered) community-based organisations and civil society organisations as well as faith-based organisations intending to distribute humanitarian assistance and provide medical and educational services. In effect, in "opposition-held areas in the north, the fragmentation of government authority meant that state responsibilities such as the delivery of social services, including security, was shared – and sometimes competed for – between different groups, both armed and unarmed" (Haddad & Svoboda, 2017: 9 et seq.).

Today, the working environment of humanitarian actors that operate in north-western Syria is still shaped by remote management, mainly from Gaziantep, Turkey, and the numerous (local) humanitarian actors on the ground. The high number of various humanitarian actors in the area and the fact that in 2018 the international community agreed on US $2.1 billion of financial support (more than in any previous year; UN OCHA, 2019a: 9) mirror the high willingness to help, while simultaneously emphasising that humanitarian assistance has become a "big business" in Syria. The latter leads to a highly competitive environment with dense competition for funding, reputation and access among humanitarian actors. In this context, "even the relationship with the armed groups" (I11) is competed for. This is not only the case within and among local NGOs. It also involves international NGOs – with surely the "Syrian NGOs being the weakest in the game" (I11) because they do not have the same funding and resource opportunities as their international counterparts.

Figure B:
Map Idlib, intensity of violence, 14 Feb - 31 March 2019.
Source: United Nations | DPPA, 2019.

Syrian Arab Republic | Idlib
Intensity of violence | 14 Feb – 31 March 2019

Demilitarized zone [DMZ]

High
Pro-GoS
Intensity of violence by number of events
recorded [14 Feb - 31 Mar 2019]
Low

High
HTS and AOGs
Intensity of violence by number of events
recorded [14 Feb - 31 Mar 2019]
* Excludes inter-factional violence
Low

TURKEY

ALEPPO

IDLIB

DMZ

LATAKIA

HAMA

Reported Violent Events

| Attacks by Pro-GoS forces

| Attacks by HTS and AOGs

31

18

2

4

1 Jan   14 Feb [Sochi Summit]   31 Mar

Legend

Highway | Primary | Sec. Road
Railroad
Airport, airfield
Governorate Boundaries

Russian observation post
Iranian observation post
Turkish observation post

Armed Opposition Groups
(AOGs) and HTS

0   10   20 km

Note: This map is for illustrative purposes only and does not imply endorsement by the UN.
Source: [ACLED; Open Source: Telegram Channels, Twitter, Local media outlets]

UNITED NATIONS | DPPA

As shall be analysed in more detail in this paper, besides this competitive at-mosphere, the working environment of humanitarian actors in Syria is further aggravated and politicised by counter-terrorism measures. Gaining and main-taining access, which includes engagement with the so-called "terrorist" group HTS, sticking to the humanitarian principles while simultaneously complying with counter-terrorism measures is an omnipresent dilemma for humanitarian actors in north-western Syria (Carter & Haver, 2016: 17).

Within Idlib, the strengthening of HTS four years ago (Jawad al-Tamimi 2018) was "welcomed" by donors and NGOs (I5) because, in contrast to the previous situation of many highly fragmented NSAGs, now only one negotiation partner remained. Yet, in the following, owing to HTS being designated as a "terrorist" group, the attitude towards HTS quickly changed to the negative (I3) and NGOs became reluctant to openly interact or even cooperate with HTS. Nonetheless, NGOs still try to gain access via bilateral negotiations that might include NSAGs like HTS on a local level (Carter & Haver, 2016: 16). However, these negotiations remain highly clandestine.

The following two sections of this paper shall shed more light on these complex interlinkages. Section II shows how the difficult negotiation environment and the organisational structure of HTS and its humanitarian counterparts, as well as their objectives, norms and motives, influence humanitarian access nego-tiations in north-western Syria. Section III highlights the implications of coun-ter-terrorism legislation. As shall become clear, humanitarian coping strategies to propitiate counter-terrorism legislation with the necessity of negotiations with HTS, like clandestine negotiations and limited information exchange among hu-manitarian actors, result in a culture of silence. Thus, humanitarian negotiations with HTS become invisible. This further weakens the humanitarian actor's nego-tiation position. By making transparent how negotiations on humanitarian ac-cess with HTS in north-western Syria work and evolve and drawing attention to the impacts and consequences of counter-terrorism measures for humanitarian actors in this context, this paper aims to break this culture of silence.

2. Humanitarian access negotiations with HTS

Since humanitarian negotiations imply a power relation among the negotiating parties, this analysis is based on the micro-politics theory of Michel Crozier and Erhard Friedberg (1979) and the power-dependence theory of Richard M. Em-erson (1962). To thoroughly retrace how humanitarian actors and Hay'at Tahrīr al-Shām act in negotiations on humanitarian access, the focus of this analysis is put on exploring imbalanced power relations as well as techniques to influence opponents.

As outlined above, because HTS is in control of most of Idlib, humanitarian actors must negotiate with them to ensure and maintain humanitarian access. Still, humanitarian actors are cautious to consider representatives from NSAGs like HTS as partners per se, which is reinforced by counter-terrorism measures. However, as already described above, following negotiation theory, negotiation actors can only achieve their goals by formulating collective objectives as well as by cooperation and competition within a power relation. This argument is supported by McHugh and Bessler who state that "no one party could achieve [its objectives] independently, [thus] each party must view the other as having a shared role and responsibility in reaching such an agreed outcome" (Mc Hugh & Bessler, 2006: 17).

Applied to the context of this paper, this means that HTS and humanitarian actors enter negotiations because their common collective objective is to achieve the support and goodwill of the population on the ground. However, their motivations to do so differ. HTS, for example, intends to be recognised by the population and the international community as a legitimate actor not only in providing public services but also in putting an internationally recognised government in place (I3; I7; Al-Khateb 2019). In contrast, humanitarian actors aim to distribute humanitarian assistance according to the humanitarian principles. Doing so, they need to achieve popular support for their presence and projects.

Crozier and Friedberg argue that decisions taken within such a power relation – and hence in (humanitarian access) negotiations – are determined by the environment, the involved actors and their objectives. The specific setting of these three determinants restricts the actors' negotiating strategies and options and thus guides them to solve the problem of collective action (Crozier & Friedberg, 1979: 7). Building upon this, the following chapter examines these three determinants in more detail with regard to humanitarian actors-HTS negotiations in north-western Syria.

> Decisions taken within a power relation [...] are determined by the environment, the involved actors and their objectives.

2.1 The negotiation environment

The broader negotiation environment in north-western Syria, including the concrete, changing context of the conflict, strongly frames what kinds of action and options are feasible in humanitarian access negotiations. Therefore, it will be closely considered in the following. The analysis starts with an examination of the social negotiation environment of HTS and subsequently discusses the landscape of humanitarian actors before turning to the negotiation setting itself.

The social negotiation environment of HTS is highly characterised by the myriad of NSAGs active in the area, several of which HTS absorbed after their establishment in early 2017. NSAGs in north-western Syria are highly fragmented, characterised by constantly changing alliances and subject to external influences (Jonsson 2016). This highly fluid environment is also mirrored in the way in which HTS itself developed and how it interacts with the variety of other groups and organisations in the area (Jawad al-Tamimi 2018). Long-term relationships among NSAGs guided by common interests are rare. Short-term and even ad-hoc NSAG-specific objectives are more common. This entails at times severe disagreements among NSAGs in Syria concerning negotiation objectives and military operations (The Carter Center 2017). As a result of this highly group-specific, quickly changing behaviour and the high tension among NSAGs, humanitarian negotiations in Syria cannot be merged or generalised, but have to be planned and executed individually for each NSAG and each object of negotiation.

Beyond this, also the broader security situation on the ground and the current positioning of HTS in the active conflict influences HTS' strategies and position of power in humanitarian negotiations. As one interviewee put it: "[I]f there are [hostilities] with other groups, they [HTS] have more power because they are providing security for the people" (I15), which results in "more control at checkpoints" (I14). Another interviewee contradicted this claim stating that if there is "fighting on the ground [...], then the negotiations are easier because there is a significant need that they [HTS] cannot cover" (I16) and therefore HTS is dependent on humanitarian assistance and the humanitarian actors. Despite these different views, it is evident that the broader security context indeed affects the environment of humanitarian negotiations and determines what objectives and strategies are feasible.

As already detailed above, the social context for humanitarian actors in access negotiations, on the other hand, is shaped by the fact that many humanitarian actors work remotely, for example from Gaziantep in Turkey. As has become clear from the introduction as well, high competition among humanitarian actors and counter-terrorism measures also strongly shape the environment of humanitarian actors. The former might trigger both local and international NGOs and International Organisations to be generally more willing to compromise in their negotiations with NSAGs to not only ensure and maintain humanitarian access, but also to secure their funding for projects and staff, i.e. their financial survival. The latter, on the other hand, built the ground for a destructive culture of silence that is further worsening the humanitarian negotiation position. However, this shall be detailed in section III.

Figure C:
Map Access for cross-border humanitarian
assistance from Turkey.
Source: OCHA 2019.

Access for cross-border humanitarian assistance from Turkey

Legend:
- ▪ Higher quality of access (but still subject to access constraints)
- ▪ Moderate quality of access (increased access constraints)
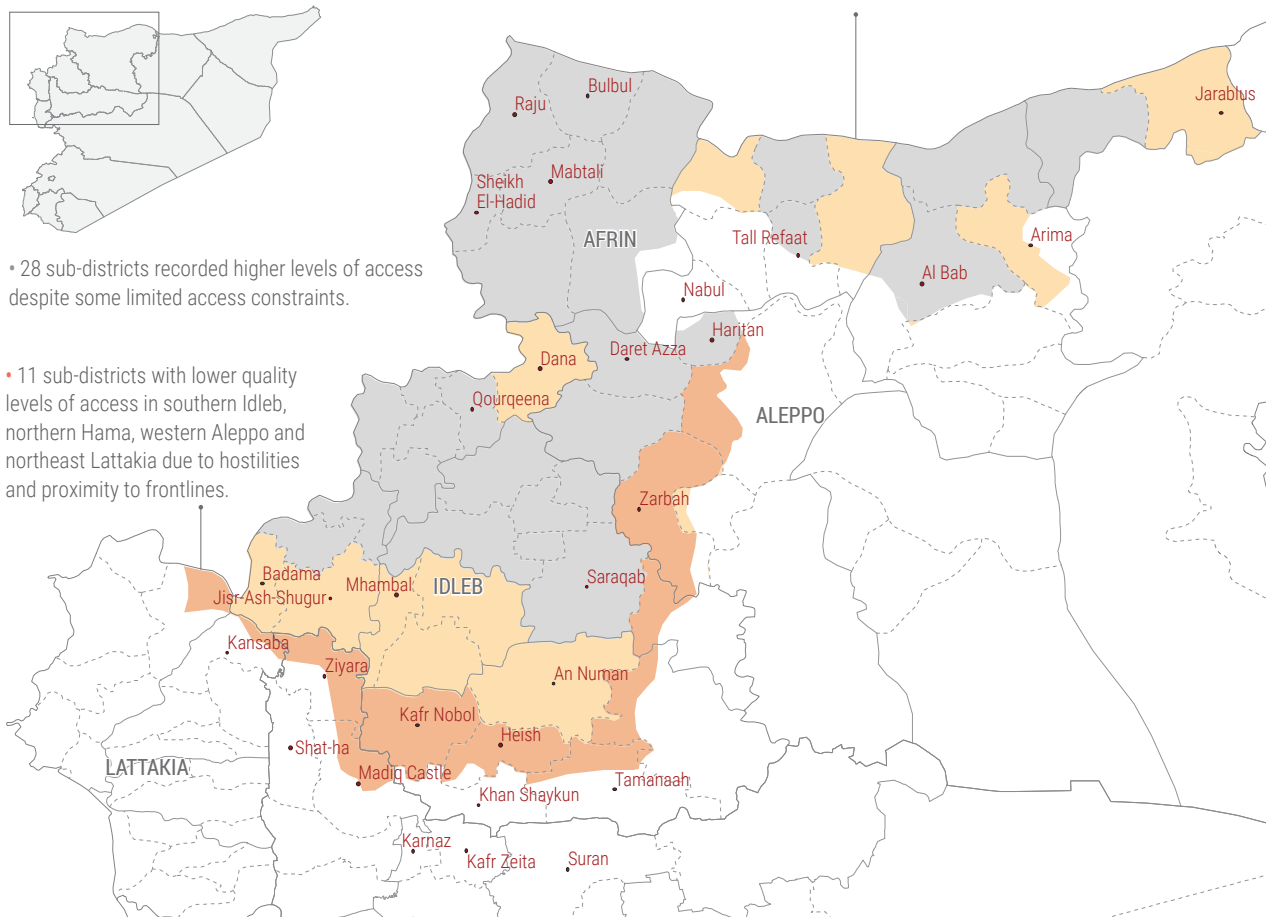- ▪ Lower quality of access (significant access constraints)

The boundaries shown and the designations used on this map do not imply official endorsement or acceptance by the United Nations.

11 sub-districts recorded moderate access levels, including, Azaz, Aghtrin, A'rima and Jarablus sub-districts in northern Aleppo countryside mainly due to the lower levels of assistance delivered by humanitarian partners coordinating through the formal coordination system. In Idlib de-escalation area, Dana, Ma'arrat An Nu'man, Ariha, Ehsem, Mhambal, Jisr-AAsh-Shugur and Badama sub-districts recorded moderate quality of access due to hostilities and proximity to frontlines as well as restrictions by local actors controlling the territory.
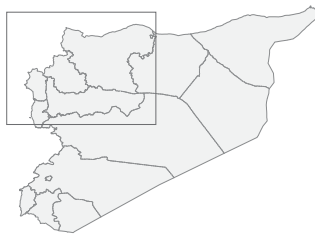
- • 28 sub-districts recorded higher levels of access despite some limited access constraints.

- • 11 sub-districts with lower quality levels of access in southern Idleb, northern Hama, western Aleppo and northeast Lattakia due to hostilities and proximity to frontlines.

Map labels: Bulbul, Raju, Sheikh El-Hadid, Mabtali, AFRIN, Tall Refaat, Jarablus, Arima, Nabul, Al Bab, Daret Azza, Haritan, Dana, Qourqeena, ALEPPO, Zarbah, Badama, Jisr-Ash-Shugur, Mhambal, IDLEB, Saraqab, Kansaba, Ziyara, An Numan, Kafr Nobol, Heish, Shat-ha, LATTAKIA, Madiq Castle, Tamanaah, Khan Shaykun, Karnaz, Kafr Zeita, Suran

Personal, religious, tribal, political, or other connections and networks, especially of field staff, are of high relevance for humanitarian access negotiations.

Further actors, too, can exert pressure on humanitarian actors in access negotiations. One example is donors. They influence the working environment of humanitarian actors as they bring in their own funding preferences for specific areas, guidelines, restrictions and/or political statements to the table. This includes country- and thus, donor-specific guidelines concerning counter-terrorism measures as well as zero-tolerance politics on (common) practices like aid diversion, access payments and the employment of NSAG members. Thereby, donors (as well as high-ranking personnel of international NGOs and International Organisations) adhere to the zero-tolerance policy mainly to avoid media scandals which could result in a negative public reputation in their respective home countries. The support of taxpayers and private funds from home country populations is crucial for the financial survival of any humanitarian actor in Syria and hence, is taken very seriously on the highest management levels and on the donor side (Haver & Carter, 2016: 12, 50 et seq.).

Furthermore, the social negotiation environment of humanitarian actors is strongly affected by the different humanitarian departments involved in the negotiations of a specific organisation. Again, the specific organisation's management plays a key role herein. For example, one interviewee shared the experience that the NGO management decided that because of the huge expansion of the humanitarian assistance sector within north-western Syria and owing to working via remote management from Turkey, from now on, "every staff member is responsible for himself/herself [...] [in] his/her [private] activities". The security agent could no longer take responsibility for everyone at any time (I11). In other words, the management decided that for activities not directly connected with the organisation's mission, like personal shopping, staff members must take responsibility for their own safety. As in north-western Syria, for local staff, private and official activities are often interlinked and not easy to be kept apart, this decision may have been an influencing factor for the negotiating strategy and position of the humanitarian personnel. As strategies that guarantee individual safety may be preferred over strategies that prioritise the humanitarian mandate of the NGO, informal private meetings with relevant NSAG members to strengthen trust may have been reduced or highly increased.

This hints at the high relevance of personal, religious, tribal, political, or other connections and networks, especially of field staff, for humanitarian access negotiations. Such networks and contacts might also include beneficiaries and members of NSAGs who may be able to – directly or indirectly, consciously or un-consciously – influence humanitarian access negotiations, both positively and negatively. On the negative side, due to pressure from these peers on the ground, "creative accounting" is very common in the offices in the Idlib governorate, for example. As some interviewees described (I4; I11; I12): the (local) NGOs "try to make the prices higher in proposals to get something [a certain surplus] from it" (I12). The surplus is then shared with their network or used to pay for access guarantees.

Another relevant influencing factor with regards to the social environment of humanitarian actors in access negotiations might be private pressures of NGO workers. Thus, for instance, some field staff might fear that a suspension of projects would influence their capacities to maintain their job and care for their dependents. (I6) Hence, they might keep violations of counter-terrorism legislation secret and thus prevent suspensions.

Finally, the concrete negotiation setup differs from case to case owing to different circumstances. In this regard, HTS generally works in two ways: it negotiates either online / via social media (using WhatsApp, Telegram and/or Skype) or in person, for example with representatives of International Organisations or the Turkish state. Both modes depend on the negotiating actors, their relationship, and their availability to participate in (in-person) meetings. However, difficult negotiations, for example with donors like UN OCHA are usually discussed in person at the highest level, mostly in Turkey, but only if HTS has access and/or representatives there (I3). During field research for this paper, high-level negotiations took place every two to three months, which was described as not sufficient to solve most of the topics. These negotiations were meant to create a general framework, on which the UN OCHA Access Team can build along with individual NGOs. (I3) Individual topics, on the other hand, were discussed with the local council or educated unarmed people, who "open the door for armed groups" (I11) or with NSAGs and the civilian body in official meetings at local councils (I15). Generally, negotiations have been described as not proactive; held on high-level as well as field-level; and as reactive instead of preventive (I3; I8).

> Negotiations are embedded in a competitive arena for funding, access and reputation that, together with counter-terrorism legislation and the objectives of important affiliated actors, shape humanitarian access negotiations.

As this brief discussion shows, the constantly and quickly changing social negotiation environment is an important factor that strongly affects humanitarian negotiations. The environment of negotiations is not only influenced by NSAGs and serious fighting on the ground, but also by the remote humanitarian distribution system, donor guidelines, the internal management of NGOs and the private network of local NGO networks. Negotiations are embedded in a competitive arena for funding, access and reputation that, together with counter-terrorism legislation and the objectives of important affiliated actors, shape humanitarian access negotiations. Besides this, it also became clear that the specific negotiation setting differs as it is determined by the negotiating persons and topics on the table.

2.2 Actors in humanitarian negotiations

Applying the theory of Crozier and Friedberg (1979) it is important to consider the role of the character of each negotiator in humanitarian access negotiations because his/her individual objectives and strategies affect the process and outcome of negotiations. Hence, this chapter analyses the individual antagonists in humanitarian access negotiations and their characteristics, including their individual and organisational objectives and motives, their command structure and their sources of funding.

2.2.1 HTS as a negotiation actor

The negotiation interests of HTS are not only shaped by the organisations' overall objectives and interests, but also by the individual objectives and behaviour of its members and representatives. The following starts with the former.

With the announcement of the establishment of the Syrian Salvation Government (SSG) on the 2 November 2017, HTS separated its civil and military agenda in two different entities. According to one interviewee, however, humanitarian actors still considered HTS and the SSG "as one [i.e. the same] conflict party, despite [separate] branding or name". On the other hand, two interviewees had the impression that UN OCHA "defines the Salvation Government as a civilian entity" (I16) or as a distinct local authority, that – in contrast to HTS – is not listed as a "terrorist" group (I3). This illustrates that the concrete level of interdependence between HTS and SSG is at least difficult to determine.

HTS publicly mainly claims military control and the SSG embodies the ambitions to serve as a government-in-waiting that is providing public services.

Nonetheless, with the establishment of the SSG, changes of roles and responsibilities became evident: to distribute humanitarian assistance, humanitarian actors previously had to cooperate with the NGO Affairs Office run by HTS, which was, according to another interviewee a "real troublemaker and asked for taxation, corruption, and force[d] [us] to contract with suppliers from their side" (I3). With the establishment of the SSG, the NGO Affairs Office was now part of the Ministry of Development and Humanitarian Affairs, which the interviewee described as "very active and […] approaching NGOs" in a more positive way (I3). Within the SSG, the Ministry of Development and Humanitarian Affairs is responsible for issues in IDP camps and the subordinated Humanitarian Affairs Office for issues on the ground (I7). Hence, HTS' government and state-building efforts are clearly present. With the creation of the SSG, roles have been reassigned: HTS publicly mainly claims military control and the SSG embodies the ambitions to serve as a government-in-waiting that is providing public services. The most evident interpretation of these developments is that, through the creation of the SSG, HTS aimed to establish a government in north-western Syria to be recognised as an official negotiating partner on the highest level. This should also allow HTS to bypass its designation as a "terrorist" group: with the establishment of the SSG, HTS created a local authority, which is officially taking the responsibility to engage with humanitarian actors and regulate humanitarian assistance in their area. Since the SSG is not listed as a "terrorist" entity, NGOs cannot be held accountable for any support in humanitarian assistance to areas where the SSG is active, if they enter negotiations and inter-relations (I3; I8).

However, as the following example illustrates, this sharing of roles and responsibilities among HTS and the SSG is neither clear nor executed consistently. The various interlinkages between the entities can at times cause severe trouble for humanitarian actors: in one case, the staff of a humanitarian organisation carried out assessments for relocating IDPs and was therefore in contact with the management of a camp. The "camp management relate[d] to HTS [whereas] the civil management [has been] part of the SSG.

In the beginning, we need[ed] the approval of the Salvation Government; [...] officially it is HTS, but communications are with the Salvation Government" (I12). However, in the course of interaction with the SSG, "HTS passed by and took a photo with the organization and published it with the quote: 'ministry is in cooperation with [name of organisation] for relocation'" (I7; I12). Through this PR campaigning, HTS tried to gain legitimacy: "They want the trust of the population that they do something for the people'' (I7). But at the same time, this is causing huge problems for the NGOs involved (I12): as per counter-terrorism legislation, the respective donor prohibited the engagement with HTS as a so-called "terrorist" group with the justification to prevent direct and indirect material support. The published picture depicted that the contracted NGO was cooperating with HTS on IDP relocation, thus, violating counter-terrorism legislation and donor regulations, although it was not their intention to do so.

Beyond these considerations of HTS/SSG as relevant organisational actor(s), it became clear from the interviews that an individual perspective is also highly relevant when considering HTS as an actor in humanitarian negotiations. The interviews highlighted that negotiations on field-level are strongly dominated by the individual objectives and attempts of single persons within HTS to demonstrate power as well. Hence, while the collective aim of HTS might be the fight against the Syrian government and the implementation of a government under Islamic Law, individuals working for or affiliated with HTS might follow their own objectives, for example personal profit. Thus, individuals do not necessarily contribute to the overall objective of HTS.

Against this backdrop, HTS members on field-level might exploit the humanitarian actors' lack of contextual knowledge. As one interviewee explained: "HTS requests are not big issues, but without having the information on the area, it is difficult to know the bad [individual] reasons of their request [...]". For instance, one HTS member asked a humanitarian actor, who is working on road rehabilitation, to also rehabilitate the road to a certain building. The humanitarian actor, without detailed context information, agreed just to learn later, that this was a purely private request. Hence the organisation had unknowingly supported the private agenda of a person affiliated with a designated "terrorist" group (I15). This example demonstrates that HTS representatives on field-level also pursue their own objectives (in that case, easing their personal logistics) even if their requests might cause negative consequences for the humanitarian actor that might result in aid suspension. In this case, the (future) relation with the humanitarian actor is at most of secondary importance for the HTS representative. It might even highly negatively affect one of HTS' main objectives, namely, to assist the civil population in order to gain popular support.

Furthermore, it became clear from the interviews that, when considering the role of individual HTS members as actors in humanitarian negotiations, we can differentiate between "old" and "new" recruits.

> While the collective aim of HTS might be the fight against the Syrian government and the implementation of a government under Islamic Law, individuals working for or affiliated with HTS might follow their own objectives, for example personal profit.

According to several interviewees, "old" recruits are typically motivated by the initial Syrian uprisings and intend to establish a state ruled by Islamic Law according to Salafi jihadism. The motivation of "new" recruits differs. As one interviewee put it: "[A]fter eight years of conflict, the armed groups are not fully [guided by] ideology" anymore (I9). Instead, newly recruited members are more typically motivated by financial interests or status when they join HTS (Crisis Group, 2019).

Another interviewee introduced yet another perspective on individual HTS members: "upper level [HTS members] are softer and more educated" and follow ideological objectives, whereas members of the "lowest level are guys with a gun", who intend solely to personally profit from their membership (I16).

In any case, personal profit interests are highly problematic for HTS. They have the potential to negatively affect HTS' legitimisation process on the ground and on the international level and thus could jeopardise its overall organisational interests. Because "[HTS] regards the population as [their] popular base [...], they fear that the population knows [when individual HTS members] are responsible for suspending [a] project or that they confiscated [...] material" (I6). If humanitarian actors are forced to suspend their projects because of the individual profit-seeking of single HTS members, the population clearly holds HTS as a group accountable. Yet, above all, legitimacy within its controlled territory is important for HTS because "without minimal legitimacy, an armed group is bound to fail in its attempt to stay in power" (Schlichte & Schneckener, 2015: 410).

To sum up, it can be concluded that the objectives and intentions of negotiating persons in HTS differ considerably, depending on whether the specific person intends to strengthen the government and state-building efforts (typically ranging at the highest decision-making level) or acts to pursue personal profit interests (typically group members on field-level). In any case, individual motives and objectives of single HTS members highly influence the engagement and negotiations of HTS with humanitarian actors. Due to the resulting inconsistencies among HTS members, despite recent centralisation efforts, HTS cannot be considered as a homogenous actor, but rather as a conglomerate of individual negotiators who come with their own specificities. Hence, each negotiating person must be individually analysed according to his/her individual intentions and objectives that might not necessarily be in line with HTS' main objectives of fighting the government of Bashar al-Assad and establishing a government under Islamic Law, thus depending on popular legitimacy in their controlled territory.

Figure D:
A completely destroyed street
in the Homs district of Al-Hamdaniyah, Syria.
Source: Christoph Pueschner/ Diakonie Katastrophenhilfe..

D

2.2.2 Humanitarian actors as negotiation actors

The specific organisational culture of each humanitarian organisation also influences its individual take on humanitarian negotiations.

In general, it is anticipated that humanitarian actors intend to deliver humanitarian assistance according to humanitarian principles. However, as shall become clear below, the specific organisational culture of each humanitarian organisation also influences its individual take on humanitarian negotiations. Furthermore, owing to personal relations, experiences, and even pressure from the local population in north-western Syria, humanitarian actors' behaviour in negotiations may also be shaped by the individual objectives of their negotiating staff. From an organisational perspective, humanitarian actors' negotiation behaviour is, besides the humanitarian principles, also influenced by the organisational structure and working conditions of the respective organisation. For instance, local humanitarian actors, mostly working as an implementing partner on the ground, INGOs and International Organisations all have different resources regarding funding, quantity and education of staff, logistics and reputation. Among others, these organisational structures determine, for example, whether connections with the local population, including NSAGs like HTS, exist and how close they are. Local humanitarian actors, for instance, still obtain more information from the ground than INGOs and are more often in direct negotiations with HTS – except for UN OCHA, who is negotiating with HTS on a high level, mostly on behalf of INGOs and International Organisations.

Furthermore, different organisational cultures exist, for example faith-based/non-faith-based, Dunantist/multi-mandated or hierarchically organised / flatly organised. The interviews conducted for this paper, suggest that the negotiation interests of humanitarian actors might even change with the origin of funding. Thus, interviewees expressed the impression that some humanitarian actors that are funded by the Gulf States seem to be highly interested in media visibility while not giving the same priorities to accountability and financial measures, for example. (I7; I12).

All these organisational specificities create a competing working environment because the humanitarian actors are not guided by the same fundamental principles alone, but add their individual tone and preferences. This includes different red lines of compromising humanitarian principles in the interaction with NSAGs. This may result, for example, in the avoidance or preference to work in specific operational areas, but may also lead to false promises and compromises (I5; I8; I9; I11). Hiring a guard or waste worker who is affiliated with HTS might be for some humanitarian actors a reasonable compromise to ensure access for humanitarian assistance, while for other humanitarian actors this compromise would be a red line. One interviewee summarised the impact of these different red lines: "HTS/SSG has something […] [in hands] against [the respective negotiating NGO and can claim that] there are other organizations that do not stick to humanitarian principles and [for instance] give [HTS] a share [of the humanitarian assistance]" (I7) (cf. Svoboda & Pantuliano, 2015).

Apart from the organisational structure and culture, the individual charac-teristics of negotiating staff highly shape the humanitarian engagement and negotiation with HTS, too. For instance, individual staff members possess various levels of education, including knowledge on international humani-tarian law or on good practices in distributing humanitarian assistance. For example, according to one interviewee, in 2012, Syrians with English language skills were predominantly hired by local humanitarian actors, but without proper professional knowledge of humanitarian assistance (I3; I7). However, this has changed in the past years.

In the course of the interviews conducted for this paper, it furthermore be-came evident that many interviewees are very well connected to each other – in Gaziantep, but also in Syria. These connections and contacts are differently distributed among individual humanitarian negotiators and are deliberately used and built upon in humanitarian negotiations (for example to collect information about a certain context, individuals etc). Such connections are usually based on different private networks, for example, religious or tribal networks that have their own policies, norms and agendas (for example on how to govern north-western Syria). However, as some of such connections might be used in negotiations, the corresponding policies, norms and agen-das might also find their way into humanitarian negotiations with HTS.

Simple individual preferences, opinions and beliefs can be relevant, too. As one interviewee illustrated: "No people that are drinking beer [would be hired and sent] to HTS areas", due to HTS' ideology of Salafism, which forbids this practice (I5). Beyond personal drinking habits, also personal opinions and motivations might influence negotiations. This includes personal experi-ences as well. One interviewee pointed out that "a man, who lost his brother (a medical doctor) through airstrikes or kidnapping and his wife was raped by government forces has another motivation than a person who lived in Damascus, hid for two years and fled because of the military" (I5). The cor-responding negotiation approach might strongly differ from the approach of international staff with a short-term contract and lacking contextual knowl-edge, coming "with their own strategy and no coordination at all" (I11). Here again, the heterogeneity of individual humanitarian actors as negotiators becomes evident. Therefore, again, each negotiating person must be clas-sified as one actor, who acts independently and autonomously and whose behaviour is not consistently well thought through. However, it should not be overlooked that, besides personal takes, also organisational interests, norms and cultures prevail and equally shape the specific negotiation behaviour.

To sum up, it is important to consider the individual character of each negoti-ating person, including both the objectives and organisational culture of his/her employer and his/her individual motives. As one interviewee eloquently summarised: in negotiations "you are not talking to the group, [instead you are] talking to persons [and there you have] different persons from negotia-tion to negotiation" (I16). This applies both to HTS and humanitarian actors.

Apart from the organisational structure and culture, the individual charac-teristics of negotiating staff highly shape the humanitarian engagement and negotiation with HTS.

2.3 Objectives and strategies in humanitarian negotiations

Following the analytical framework of this paper, negotiation objectives and strategies are the third determinant influencing humanitarian access negotiations. However, as shall become clear in this chapter, in trying to achieve their individual objectives, the negotiation strategies of NSAGs and humanitarian actors are highly influenced by the previously discussed negotiation environment (see chapter II.1) and actor characteristics (see chapter II.2). They represent the framework, within which each negotiation actor acts, driven by the mutual interest to keep the negotiation running and the aim to influence it in their own favor.

2.3.1 Objectives and strategies of HTS

HTS tries to strengthen its negotiation power through strengthening its perception as government-in-waiting, requesting their involvement in project activities, diverting assistance to other locations and/or conducting self-made need assessments.

As mentioned earlier, HTS' main objective is to unite all political and military activities under its command and hence govern its controlled territory (also through the SSG). However, as explained in detail above, it must be taken into consideration that the objectives of HTS as well as its strategy differ with the individual negotiator. As has been shown, if the negotiator is a leader and of the "old school" of HTS recruits, he/she might be more likely to act in accordance with the overall HTS objectives. If he/she is a newly recruited group member on field-level, he/she might be more likely to be predominantly influenced by individual objectives like for example personal profit.

Besides individual and organisational actors' objectives, the negotiation environment (including the social and security context) discussed above also has its influence on the strategy of HTS towards humanitarian negotiations. This view is supported by the micropolitics theory by Crozier and Friedberg (1979).

Speaking of strategy, this paper focuses on negotiations on the field-level because these are most sensitive and clandestine. Different approaches to strengthen HTS' power position have been observed: if humanitarian actors' activities are not in line with HTS policies and agendas and if this is problematised by HTS (I15), HTS might for example "[come] to the office and [say]: 'we will suspend your work' and force them [i.e. the respective humanitarian actor] to come to their office. With that, they want to show the team that they exist and have the power" (I7). Moreover, HTS tries to strengthen its negotiation power through strengthening its perception as government-in-waiting, requesting their involvement in project activities, diverting assistance to other locations and/or conducting self-made need assessments (I7; I12).

These approaches are complemented by a distinguished outreach strategy. As one interviewee explained, HTS "either communicate[s] directly because they have contact numbers for all organizations or [they] send a person to the [humanitarian] centre in Syria to tell them [i.e. the humanitarian organisation] anything or call people to their office" (I6).

This is dependent on the progress of the negotiation and who is aimed to be approached. Another, completely different, strategy of HTS to get in contact with humanitarians is to build up an ad-hoc checkpoint to stop humanitarian staff members, especially from the management, on their way to work (I15). Doing so, owing to its military power, HTS can generally enforce negotiations nearly anytime and anywhere in north-western Syria because they "can be present everywhere". The specific approach in such ad-hoc negotiations ranges from simple "presence [to show off their power position, to attempts of] influence [and even the execution of] control" over certain resources or processes (I3). Generally, these different outreach strategies depend on the negotiating topic: permission of movement, vehicle registration, documentation and ID cards are negotiated on the local level at checkpoints, whereas with the head of local councils and/or head of camp management the scope of the project, including the targeting locations and beneficiaries will be negotiated. On high-level, as mentioned before, the general policy, taxation and aid diversion will be addressed (I3; I8).

Beyond these differentiated outreach strategies, interviewees pointed to different HTS motivations and strategies behind the definition of place and time for negotiation appointments. Setting time and place is a source of power for both actors, for instance when negotiations take place in Turkey. Some humanitarian actors believe that the humanitarian actor should choose the time of the negotiation to show power (I6; I15). Others think that HTS is responsible for the decision on the date and time for negotiations: "The [negotiating humanitarian] actor[s] do not request a date or place; [...] they accept it and do not try to change it" (I7). This should communicate that they are not afraid and will not ask for more time (I15). Another interviewee was aware of both strategies and said that "both [humanitarian actors and HTS] are not trying to change the date to show power" (I15). As yet another interviewee highlighted, the setting of place and time is also influenced by visibility considerations, i.e. whether HTS can use the negotiation to publicly gain legitimacy or whether the negotiation takes place without involving the public (I3). The example of another interviewee shows that yet another strategy is "intended delay": if "HTS said the meeting is at 1 pm, [...] they will not come before 2 pm to show power" (I7). In other words, within their power relationship, both, humanitarian actors and HTS try to maximise their position in regards to setting a place and time for their engagement.

As the negotiators meet, according to the interviews conducted for this paper, the negotiations usually start with "peace and tea" (I15), where HTS announces that they "are happy that [the humanitarian actor] still work[s] in [their] area" and that they "know [about] the pressure from the donors" (I15). Doing so, HTS intends to create an emotional connection by referring to a common "enemy" (i.e. the restrictive donor policies and counter-terrorism legislation) so that on the one hand, they strengthen the emotional relationship but on the other can start/continue to pose their interests and requests.

> Within their power relationship, both, humanitarian actors and HTS try to maximise their position in regards to setting a place and time for their engagement.

For instance, HTS may demand to change the evaluation and management team (I6) or the beneficiary lists of a certain project, to include/exclude IDP camps, to hand over food baskets to their soldiers (I9), or not to "use digital devices when doing the surveys because otherwise the location will be sent to the UN system" (I15). In those cases, in which HTS wants to gain benefits, according to the experience of several interviewees, they usually start with high-level requests to reach small-level gains (I15): for example, they "start with high percentages, like 20% and then compromise at 10%" as an HTS share of humanitarian assistance (I7). Other requests might include hiring "a guard or waste worker [affiliated with HTS]" (I7). "[O]therwise they say you are not allowed to work" (I12). In addition, HTS may add that "other international NGOs [always] gave them the goods" (I7) they requested. Thus, they are strategically making use of the highly competitive environment of humanitarian actors described above. Doing so, HTS "looks for a weakness to push on, for instance the background of the organization". They may also "share ['good-lessons'] learned from other NGOs: for example, 'last year [a certain humanitarian actor] shared hygiene kits with us, why don't you do that?'" (I15) to create more negotiation pressure. Throughout these talks, HTS typically emphasises their experience with aid diversion and claims that it is common practice. As one interviewee sees it, such requests can also be used without an actual material interest, but just to manipulate the negotiation atmosphere: "Sometimes [HTS] asks for things that are not acceptable just to demonstrate power" and to influence the power relation between the negotiating partners in their favour (I16). In effect, HTS' main strategy is to collect weak points on the specific humanitarian actor in order to be in a stronger negotiation position at the end (I15). Because of the contextual advantage of direct physical threats, those "weak points" can be mostly identified on the field-level. Due to the lack of communication and information-sharing as well as the lack of incident reporting among humanitarian actors, HTS members can easily stick to those strategies. In contrast, these strategies are less likely on high levels, such as UN OCHA negotiations, as the group tries to gain international legitimacy in order to fulfil its position as government-in-waiting there.

Ultimately, to sum up, the strategy of HTS in negotiations on humanitarian access is highly influenced by both individual and organisational objectives as well as by the broader negotiation environment discussed above. This chapter has shown how these influenced the concrete framing of the negotiation process, including outreach, the setting of place and time, as well as the agenda-setting strategy of HTS.

Figure E:
Street in Aleppo, Syria, March 2018.
Source: Caritas international.

2.3.2 Objectives and strategies of humanitarian actors

As for HTS, also the humanitarian negotiation strategy and power position are influenced by both organisational and individual objectives and agendas. As pointed out earlier, this includes the objectives of high-level actors like donors and the NGO management, but also of field staff on the ground.

However, especially at field-level, negotiation approaches have fully different, more directly felt feedback effects. One interviewee illustrated an example: "HTS asks for a share from a local NGO, and the latter reports the incident to their office in Gaziantep, and that [in turn] will report to OCHA who will then negotiate with HTS at head level." As a reaction, "sometimes, HTS returns [to the field staff] and asks them why they reported to OCHA and threatens to kill or detain the guy [who did so]" (I12). This demonstrates the interwoven relationship of the different humanitarian negotiating levels and illustrates the feedback loop of action and re-action, typical for negotiations. To guarantee individual safety and avoid negative feedback effects, local humanitarian actors might apply the problematic coping strategy to avoid reporting critical instances and sharing information. This may lead to a highly problematic culture of silence about HTS' claims and requests and trigger unreported compromises in humanitarian access negotiations. However, this choice of strategy is supported by the micro-politics theory by Crozier and Friedberg (1979), which finds that each negotiating actor is in pursuit of individual objectives, but his/her negotiating possibilities are simultaneously influenced by the environment and other actors.

> Due to the lack of coordination among humanitarian actors and information sharing, HTS can play the humanitarian actors off against each other.

The objectives and strategies of humanitarian actors are further hampered by the fact that different specific contexts, changing negotiators, and diverse individual and organisational objectives result in a lack of a common negotiation approach among humanitarian actors. This results in comparative disadvantages of humanitarian actors vis-à-vis HTS in negotiations. Due to the lack of coordination among humanitarian actors and information sharing, HTS can play the humanitarian actors off against each other.

Beyond this background, the first, very important step for humanitarian actors before entering negotiations is information gathering. Following the handbook advice: "first prepare, second prepare and third prepare" (I6), they typically aim to first learn more about their opponents' reasons for negotiating (I14). This also involves further information about the antagonist, including "how he thinks, how he behaves, what is the key for the person" (I6), and "what they like, what they refuse, whether they respect NGOs/INGOs, and what are they looking for" (I14). To receive this important information, humanitarian actors ask for support from local employees, their families, beneficiaries, other armed groups, as well as from local councils and community leaders (I6; I14).

Based on this information, if the humanitarian actor is not forced to negotiate with HTS, they might deliberately decide to enter negotiations with HTS from their own vantage point (I15). Thereby the approaching strategy is crucial. Different approaches exist: one is to "expand the circle carefully and go to someone whom you know, for example, religious leaders" (I11). As hinted upon earlier, such approaching strategies highly depend on the relations and contacts of the humanitarian negotiators. Making use of this is of course not without risks. That is why in some cases "when people go and negotiate with HTS, they say goodbye to their families" (I12), fearing they might be killed. As an interviewee put it: "If you go to the wrong person, you will add fuel to the fire" (I11). Hence, the selection of negotiating staff is a crucial strategic decision. After the selection of the negotiating staff, all information on HTS' objectives and the objectives of the humanitarian actor will be shared with the individual negotiator (I5). Nevertheless, in order to reduce the risks both to the negotiating staff and to the humanitarian actor as a whole "the NGO will [strategically] keep [the negotiation at] low profile until it is done, to not receive many interferences and influences on the negotiation" (I15; I16). Sometimes, other NGOs and/or the Access Working Group by UN OCHA are informed or even involved (I14) in order to achieve a better negotiating position by gathering more information and by creating so-called power networks.

Again, considering the above-mentioned feedback effect, the strategy of collecting information by building on people in the field (may it be staff or beneficiaries) has to be seen critically, because informants might face certain threats when they provide humanitarian actors with information. Thus, when seeking information, humanitarian actors could cause harm by taking advantage of the trust and knowledge of their informants. However, including the population in need and the beneficiaries into negotiations is a strategic decision that gives humanitarian actors extra leverage, because, although HTS collects fees, for example on received food baskets or water (I7), public pressure can influence their power position in negotiations in a very positive way. Here, the interconnection between negotiation strategy, negotiating actors and negotiation environment becomes evident: HTS' and the SSG's dependence on public support present a source of power, that might lead to the fact that HTS reduces their requests and demands during negotiations, when humanitarian actors explain "what happens when [we are] leaving" and argue that HTS and the SSG will lose their popular base or, even worse, that "the population will push against [them]" (I15).

Some humanitarian actors deliberately build on the broader negotiation environment in order to maximise their leverage. One interviewee lists: "first[ly], [there are] beneficiaries who will help if they like the project, second[ly], the local council will help if there are good relations and agreements between the organization and the local councils, third[ly], the field staff [will help] when it is strong and trained in negotiations, and fourth[ly], the humanitarian principles [are a good normative base to build upon]" (I6).

> When seeking information, humanitarian actors could cause harm by taking advantage of the trust and knowledge of their informants.

The fear of single local humanitarian actors to be affected by negative feedback effects if they do not comply – at least to some extent – with NSAG requests can trigger a culture of silence.

Building on this, one strategic approach including all these actors is to share project-related details during kick-off meetings, so that HTS cannot spread alternative (wrong) information on the specific project and/or the humanitarian actor behind it. Furthermore, some humanitarian actors first request green light from the local council (I15).

This and similar approaches of building on the broader negotiation environment can be conceptualised as the creation of so-called power networks. A power network, according to Emerson, connects two or more power-dependence relations, which implies the diffusion of dependence into new relations in a network. For instance, if NGO A and NGO B, who are in separate power-dependence relations with HTS, want to improve their negotiating position they create a power network among each other in order to share resources and information to decide the power-dependence relation in their favour. Another example for a power network approach from the north-western-Syrian context is an incident described by one interviewee, where HTS confiscated 72 tanks and kidnapped the field staff of a local NGO. After previous strategies, like indirect and direct negotiations, failed, the negotiating humanitarian applied a power network strategy: He published a letter with 21 other NGOs, in total conducting 500 projects on the ground, threatening to suspend all projects, if HTS did not give in (I6; I15). Doing so, he was finally successful and the hostage was released.

Another strategy to influence the power-dependence relation is the inclusion of intermediaries because the role and position of intermediaries and their relations towards the negotiating parties are strongly affecting the negotiating process. Both negotiating actors, HTS and the humanitarian actor, use this approach: intermediaries who are independent might support humanitarian actors in negotiations and the general provision of humanitarian assistance within their area of influence. Intermediaries that are dependent, i.e. who joined HTS voluntarily or by force might argue and negotiate in favor of HTS, and thus are chosen by HTS.

Concluding this chapter, it can be said that for both negotiating actors, humanitarian actors and HTS, besides their organisational objectives, also the individual negotiators and their distinguished interests, personal experiences and private affiliations highly influence the negotiation process and outcome. Thus, the fear of single local humanitarian actors to be affected by negative feedback effects if they do not comply – at least to some extent – with NSAG requests can trigger a culture of silence. Another important role is played by the different organisational structures and cultures among humanitarian actors, also entailing distinguished approaches on red lines for compromises of humanitarian principles in access negotiations.

Among humanitarian actors, there is no exchange on these highly important different approaches, which puts HTS in a comparatively better power position as they can use this information against them. Humanitarian actors can oppose this through information sharing and dedicated background research on both the individual and organisational objectives of their individual negotiation opponents and other humanitarian actors involved with HTS. As the analysis has shown, another very successful strategy is the strategic involvement of the broader negotiating environment. Involving other powerful actors, like fellow humanitarian actors, populations in need and the broader Syrian civil society, as well as – to some extent – intermediaries in a so-called power network approach can indeed strengthen the humanitarian negotiation position.

3. The implications of counter-terrorism measures on humanitarian negotiations with HTS

By investigating how negotiations on humanitarian access with HTS take place and evolve, it became clear that, following the micro-politics theory of Michel Crozier and Erhard Friedberg (1979) and the power-dependence theory of Richard M. Emerson (1962), humanitarian access negotiations in north-western Syria indeed vary with the context, i.e. the negotiation environment, the negotiating actors and the concrete objectives and strategies applied in the negotiations. As has been shown above, among many other factors, thereby, also counter-terrorism measures influence the negotiations as they are part of the broader negotiation environment. Against this background and with reference to the high relevance of counter-terrorism legislation outlined in the introduction, this section takes a closer look at the impacts and consequences of counter-terrorism measures on humanitarian access negotiations with HTS in north-western Syria.

III.1 Implications on HTS policy

Counter-terrorism legislation does not only influence humanitarian negotiation behaviour. HTS, too, reacted to it and introduced different approaches to bypass their designation as a "terrorist" group. With the engagement of its civil arm, the SSG, in official communications and negotiations on general topics, including taxation and aid diversion, at headquarter levels, for example, HTS intends to strengthen its reputation among donors, UN OCHA and other important international players. Being openly and internationally accepted as a legitimate government-in-waiting in the political transformation process would strengthen its general negotiating position and release the overall disadvantage of being designated as a "terrorist group", providing the opportunity of legitimate and open negotiations.

Counter-terrorism measures influence the negotiations as they are part of the broader negotiation environment.

On the other hand, HTS continues to address operational topics at field-level in clandestine negotiations because it is aware of the counter-terrorism measures and donor regulations, which includes the potential criminalisation of humanitarian staff that directly or indirectly supports designated "terrorist" groups. Doing so, HTS recognises humanitarian actors' need for confidentiality because they fear loss of funding and reputational damage. At the same time, such clandestine negotiations provide a comparative negotiation advantage for HTS as the absence of information exchange among humanitarian actors in the content of negotiations provides them with an improved power position: whereas HTS is aware of all negotiations and agreements with all humanitarian actors, the individual humanitarian actor can only rely on its own information.

3.2 The dilemma of the use of intermediaries

One approach used by both humanitarian actors and HTS to bypass the restrictions posed by counter-terrorism legislation on humanitarian access negotiations is to work through intermediaries because the laws only forbid direct negotiations. Hence, humanitarian actors and HTS may agree to work through a trusted third person or entity, like local councils or other local authorities. By doing so, the objectives and motives of this powerful third party become highly relevant for the outcome of negotiations.

However, it is difficult to determine how trustworthy individual intermediaries really are. For example, persons who joined HTS and/or the SSG voluntarily or by force, without the knowledge of the humanitarian negotiator, could be highly biased towards HTS. This of course puts HTS/SSG in a better negotiation position toward humanitarian actors as they might argue and negotiate in favour of HTS/SSG. HTS/SSG therefore usually tries to quietly position intermediaries, who are not as neutral as it seems. One interviewee illustrated these difficulties with the following example: documents of a local council, functioning as an intermediary, that had to be shared with the donors only entailed the stamp of the respective local council, whereas an official letter from the same local council addressing the humanitarian actor entailed the stamp of the local council and the Syrian Salvation Government. That means that in communication with the donors, the local council presented itself as a neutral mediator, although they are aligned with the Salvation Government in some way (I17).

Besides this underhanded strategy to impose HTS-friendly intermediaries, HTS/SSG can also impose their biased intermediaries very openly: as humanitarian actors are according to counter-terrorism measures not allowed to engage in direct negotiations with them, the only possibility to enter legal negotiations are indirect negotiations through intermediaries. Thus, they might confront humanitarian actors with the choice of working through the person they selected or entering direct, i.e. illegal, negotiations. As the latter is not feasible while at the same time complying with counter-terrorism legislation, humanitarian actors are often forced to accept the first option. A typical example of such intermediates is local councils. As one interviewee put it: "Local councils do not help in negotiations because they either fear or are followers of HTS" (I6).

> While it allows legal indirect negotiations between humanitarian actors and NSAGs, the use of intermediaries is also a strategy that is prone to be misused by HTS.

Thus, humanitarian actors can only take advantage of the concept of inter-mediary negotiations if they are able to include neutral and independent intermediaries as they might be more likely to support humanitarian actors and the general provision of humanitarian assistance within their area of influence. As has been shown above, this is not an easy task at all. Hence, the strategy to include intermediaries to circumvent counter-terrorism legislation is no perfect solution. While it allows legal indirect negotiations between humanitarian actors and NSAGs, it is also a strategy that is prone to be misused by HTS.

3.3 The dilemma of aid suspension

As highlighted earlier, for humanitarian actors in negotiations with NSAGs like HTS, counter-terrorism measures imply the need to navigate a legal grey area while seeking to secure access to civilians in need. That legal grey area is strongly shaped by the sanction regime of the UN and its member states. It entails, for example, fines and imprisonment if humanitarian actors travel to territories that are controlled by a designated "terrorist" group (cf. Mackin-tosh & Duplat, 2013). As has been pointed out in the introduction above, this results in limitations for humanitarian actors in maintaining the humanitarian principles in their day-to-day work. In order to avoid a violation of counter-terrorism measures, humanitarian actors might refrain from operating in territories that are under the control of a designated "terrorist" group or suspend their whole programming despite high humanitarian needs. This violates the principle of impartiality.

The practice of aid suspension is nicely illustrated by the following example from north-western Syria: when HTS demanded registration fees for cars and drivers delivering humanitarian assistance at the Bab al-Hawa border crossing between Turkey and Syria, newspapers reported on the "terror tax" (Ensor 2018) and warned "that sending aid to Syria's Idlib could be a 'terror offence'" (Hooper 2018). Thus, to prevent direct and indirect support to HTS – and hence being potentially convicted to violate counter-terrorism legislation – the aid departments of the USA, USAID, and Great Britain, DFID, suspended their funding for three months. This went at the expense of civilians in need. The aid suspension, however, resulted in civilian pressure on HTS and put the latter in a weaker negotiating position. This forced the SSG to announce that the "imposed fees will be stopped as of the date 10/1/2018 so that we could relieve the suffering and hardship faced by our people in the free areas" (Syrian Salvation Government 2018).

This shows how the negotiation environment (i.e. counter-terrorism legislation) and negotiation strategies of the actors involved (i.e. the taxation of humanitarian assistance on the side of HTS and aid suspension on the side of humanitarian actors) interlink.

Avoiding a violation of counter-terrorism measures might lead to a violation of the principle of impartiality.

It also shows that the (threat of) aid suspension in the HTS-controlled territory is a very effective strategy used by humanitarian actors to influence their imbalanced power relation with HTS in their favour. However, this strategy can have life-threatening consequences for civilians that live in a territory that is controlled by a designated "terrorist" group and implies an instrumentalisation of humanitarian assistance and populations in need. This entails two dilemmas as it, on the one hand, violates the humanitarian principle of impartiality, i.e. serving the people in most need. On the other side, supporting HTS and the SSG with so-called "taxes" and thus compromising on the humanitarian principles of neutrality in order to ensure access for humanitarian assistance, might contribute to human suffering due to the continuation of conflict (Narang 2015).

3.4 A culture of silence

Alternative individual strategies of humanitarian actors to harmonise counter-terrorism legislation with the necessity of maintaining humanitarian access, especially at field-level, are, for example, secret direct negotiations and compromises as well as the waiving of incident reports. However, all of these weaken the humanitarian negotiation position at least to some extent.

The waiving of incident reports may lead to aid suspension. If this can be traced back to individuals in the field, it may pose serious security threats to them. Furthermore, individual aid workers on the ground have an interest in continued aid distribution as this provides them with a job and income. They have hardly any interest in suspending their own jobs by waiving incident reports. In this way, staff dependence on their work and income might lead to the fact that "people who live on the ground do not tell the truth when it comes to information" on HTS violations of the humanitarian principles and compromises made by humanitarian actors in this regard (I11). Instead "local NGOs, who are scared, will [...] lie to NGOs in Gaziantep to facilitate their work" (I12) and to ensure their income. Another approach of local organisations might be that in "translation, [...] [of a report from Arabic to English], 80% of [the original content of] a report to Gaziantep get lost" (I11). Thus, owing to the sanctions connected with reporting violations of counter-terrorism legislation, information is retained by the humanitarian actors on the ground to maintain their job as well as to safeguard the humanitarian imperative.

Direct negotiations, on the other hand, directly violate counter-terrorism legislation and threaten the implementing humanitarian actor-donor relationship and thus the humanitarian endeavour as a whole. They are hence kept secret. This provides HTS with a trump card that can be used to reach better negotiations results in their favour and can lead to compromises regarding the humanitarian principles of neutrality and independence.

The reason why humanitarians still stick to such strategies is that they have to keep the balance between "doing their job, [adhering to] policy [i.e. the humanitarian principles and counter-terrorism legislation] and maintaining access" (I11). The competition among humanitarian actors entails that they try to gain at least short-term access to NSAG-controlled areas, because this is mandatory for distributing humanitarian assistance at all (Haver & Carter, 2016: 59 et seq.). Hence, maintaining access ranks highest on their priorities. If humanitarian actors oppose these practices without support from other organisations, they may experience severe disadvantages (Haver & Carter, 2016: 50 et seq.). In any case, as one interviewee put it, regardless of which strategy they choose, "NGOs just do it how they think it is best and affect others with that" (I12).

Currently, to harmonise individual and organisational humanitarian objectives with counter-terrorism legislation, counter-terrorism measures are interpreted individually on a case-by-case basis. For instance, one interviewee emphasised that whereas in practice, humanitarian actor-HTS negotiations are currently not forbidden per se, concrete coordination, sharing of information and diversion of aid are considered to be totally forbidden (I15). As another interviewee adds: in some cases, even "donors know that communication with HTS takes place, but not officially" (I12). They officially "close their eyes to some NGOs, some places, some projects" (I5). However, in other cases, humanitarian actors "cannot say that we are dealing with them [HTS]" at all. Not even unofficially. Hence, in these cases "each NGO does negotiations on their own and tries to get [individual access] permission[s] [from HTS]" (I12).

This inconsistent strategy and insufficient support by donors and high-level management, while at the same time claiming a zero-tolerance policy, leads to a high level of uncertainty among humanitarian actors on the ground. They fear to be potentially criminalised for their engagement and negotiations with a designated "terrorist" group and hence refrain from exchanging information on those "hot" topics. This leads to clandestine and in-transparent negotiations. As one interviewee put it: "Negotiations are underway without letting the donor know. [In addition, there is] no coordination of NGOs; everyone acts independently" (I11).

Hence, despite "begging for a coordinated approach" (I11), a culture of silence is present when it comes to talking about negotiations with NSAGs designated to be "terrorist" groups, like HTS, and the compromises made therein. It entails a lack of coordination among humanitarian actors and a variety of different independent decisions, intensifying the competitive working environment – all together leading to a considerably weakened humanitarian negotiation position. As the above analysis of the negotiation environment already showed, this culture of silence is reinforced by a lack of international support and competition for funds, reputation, and access to the population in need among the humanitarian actors. The major consequence is that humanitarian negotiations with HTS are invisible and humanitarian negotiators' power position is weakened.

To harmonise individual and organisational humanitarian objectives with counter-terrorism legislation, counter-terrorism measures are interpreted individually on a case-by-case basis.

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This might profit NSAGs, like HTS, at least indirectly (I12): as humanitarian actors are not sharing information on negotiations, HTS has more knowledge on the context and background than their humanitarian opponents and can build on the respective uncertainty of humanitarian actors. In this way, HTS can reach a better position within the power relations of the individual negotiation and hence increase the probability of compromises on the side of humanitarian actors. Furthermore, as negotiations are held in a clandestine manner, the invisibility of negotiations result in a reinforcement of the lack of transparency and a renunciation of information exchange. This in turn again strengthens HTS' position and strategy in the long turn. Because this has been proven to be a very successful strategy, HTS will be interested to keep up this situation of low information exchange among humanitarian actors and clandestine negotiations as a favourable negotiation environment. Besides the use of violence, this is the only trump card that HTS has in humanitarian access negotiations in north-western Syria. The consequences mainly affect local humanitarian staff who are caught between the lines (Haver & Carter, 2016: 11 et seq.).

What becomes clear from this analysis is that collaboration, cooperation and information sharing among humanitarian actors that follow the same overall objectives is crucial in order to influence the negotiating environment in the humanitarian actors' favour. Only by identifying allies, such as among local/international NGOs, International Organisations or local networks, and using their joint power potentials, the negotiation position vis-à-vis HTS can be strengthened. A good example for such an approach is the already mentioned letter by 21 NGOs operating in north-western Syria which resulted in the release of a humanitarian hostage.

Conversely, the analysis has also shown that due to the culture of silence and a lack of information sharing among humanitarian actors, such power network approaches are currently used less frequently compared to other, more destructive strategies. Overall, humanitarian actors follow isolated strategies that are predominantly shaped by individual actions in order to negotiate humanitarian access with HTS in the light of counter-terrorism measures. As the analysis in section II has shown, these are dependent on the different negotiation context regarding the geographical location, the fragmentation of actors at the field-level, the various objectives and networks of the negotiators, and the different access to information. The crucial difference to negotiations with non- "terrorist" NSAGs is that counter-terrorism legislation weakens the likelihood of humanitarian actors' cooperation and information exchange out of fear of financial and legal consequences, which thus puts humanitarian actors at a comparative disadvantage vis-à-vis HTS.

4. Conclusion and recommendations

The exploration of humanitarian access negotiations with Hay'at Tahrīr al-Shām in north-western Syria is highly illustrative of the impacts and consequences of counter-terrorism measures on humanitarian actors' ability to negotiate access to areas controlled by so-called "terrorist" groups. The control of territories and the running of quasi-state functions through HTS/SSG compel humanitarian actors to engage in interactions and/or negotiations with the NSAG in order to maintain the humanitarian imperative, to gain access to the population in need within their territory and to be able to deliver humanitarian assistance effectively and safely.

Applying the micro-politics theory of Michel Crozier and Erhard Friedberg (1979) and the power-dependence theory of Richard M. Emerson (1962), it can be stated that humanitarian actors must enter negotiations with NSAGs, even with designated "terrorist" groups like HTS, because their objective to save lives and alleviate human suffering can only be pursued by cooperating and competing with all relevant actors on the ground. Notwithstanding the necessity of negotiations, they are officially not permitted as counter-terrorism legislation interprets direct humanitarian-NSAG interaction as indirect support to designated "terrorist" groups. Through this restriction, counter-terrorism measures highly constrain humanitarian actors in their negotiating power and, consequently, in their ability to secure access to civilians in north-western Syria in their day-to-day work. As a result, humanitarian actors often opt for individual, isolated, clandestine and in-transparent negotiations with NSAG like HTS to still deliver on the humanitarian imperative and to pursue their own individual and organisational objective of financial survival. Thereby, the absence of an open dialogue among humanitarian actors on access negotiations and humanitarian strategies therein in favour of secretly gained individual wins leads to a culture of silence which further weakens the broader humanitarian negotiation position.

Alternative approaches to cope with counter-terrorism legislation remain short-sighted and entail a variety of dilemmas: involving intermediaries like local councils and hence enabling indirect negotiations, for instance, has a limited positive effect for humanitarian actors in access negotiations. It successfully enables a legal form of humanitarian actor-NSAG communication. However, at the same time, NSAGs like HTS know about the political sensitivity of any form of humanitarian-NSAG interaction and use this circumstance to influence the choice of intermediaries in their favour. In this way, the necessary condition to include intermediaries into negotiations in order to comply with counter-terrorism legislation also weakens the humanitarian negotiating position regarding intermediaries.

Counter-terrorism measures highly constrain humanitarian actors in their negotiating power and, consequently, in their ability to secure access to civilians in north-western Syria in their day-to-day work.

A joint humanitarian strategy, including not only humanitarian actors at field-level, but also donors would share risks and further encourage a strengthened joint negotiation on the ground.

To influence the power relation in humanitarian-NSAG negotiations in their favour, humanitarian actors facing HTS in north-western Syria therefore often use the strategy to (threaten to) suspend humanitarian operations, thus potentially causing enormous harm to populations in need. This strategy builds on HTS' need for popular support and trusts that this is at stake if humanitarian assistance is put at a halt. While this has been proven to be highly effective, it also entails an instrumentalisation of people in need.

Regardless of these dilemmas and constraints, such coping strategies remain necessary due to the criminalisation of negotiation activities with NSAGs designated to be "terrorist" groups, the lack of international support and the resulting culture of silence. The power-dependence relation between HTS and humanitarian actors can only be decided in favour of the latter if humanitarian actors break this culture of silence, overcome the lack of transparency and share context knowledge. As counter-terrorism measures highly influence humanitarian actors' day-to-day working environment, it is necessary to enter an honest and sustained dialogue around their implications. Furthermore, instead of sticking to their individual clandestine negotiation strategies, humanitarian actors can take a better negotiating position by entering so-called power networks and considering joint activities and strategies. This may even involve joint red lines and lines of compromises.

Such joint approaches must also address donors. Joint forces vis-à-vis donors and their counter-terrorism legislation could push the UN member states to prompt a UN Security Council resolution which would consolidate the many country-specific regulations. Furthermore, through a coordinated advocacy approach of humanitarian organisations towards donors and decision-makers within humanitarian organisations, a decriminalisation of (some) negotiation activities could be triggered. A joint humanitarian strategy, including not only humanitarian actors at field-level, but also donors would share risks and further encourage a strengthened joint negotiation on the ground.

This view is shared by the interviewees of this paper who demand mechanisms to support humanitarian actors working in territories controlled by HTS. More precisely, they request to receive support that is tailored to their specific situation, because "negotiations [also] within Syria differ: SDF [the Syrian Democratic Forces] [for example] can push harder than HTS because HTS does not have the same resources" (I16). In addition, humanitarian actors demand a consensus among humanitarian actors on the "same red lines" and wish for "meeting[s] with everyone, especially the local ones [i.e. local humanitarian actors], so that [every humanitarian actor] follows the same rules" (I12). Furthermore, the interviewees note that, to ensure equal conditions and knowledge, the staff of NGOs need to be trained in negotiations outside and inside Syria. Especially the empowerment of the field office staff is needed (I11; I14), for example through workshops.

The establishment of the Access Working Group by UN OCHA, where experiences and problems are to be shared, is already a good starting point (I7; I12; I14; I15). Finally, humanitarian actors expect transparency and sustainability in discussing ethical risks, compromises and aid diversion, especially from their donors (I11).

Considering these needs and requests, the recent tightening of donor regulations should be replaced by a sustained dialogue around the implications of counter-terrorism measures, a possible alleviation of counter-terrorism legislation in favour of principled humanitarian assistance and the decriminalisation of negotiation activities. In addition, humanitarian actors should be encouraged to have an open discussion about practical and legal consequences. Discussions at headquarter- and field-level should be strengthened to make the invisible field of humanitarian negotiations with NSAGs like HTS more transparent, thus strengthening the negotiating position of humanitarian actors.

> The recent tightening of donor regulations should be replaced by [...] a decriminalisation of negotiation activities.

Abbreviations

DFID Department for International Development
HTS Hay'at Tahrīr al-Shām
IDP Internally Displaced Person
INGOs International Non-governmental Organisations
ISIS Islamic State of Iraq and Syria
NGOs Non-government Organisations
NSAG Non-State-Armed Groups
SSG The Syrian Salvation Government
UN United Nations
UN OCHA United Nations Office for the Coordination of Humanitarian Affairs
UNHCR United Nations High Commissioner for Refugees
UNSC United Nations Security Council
UNSCR United Nations Security Council Resolution
USAID United States Agency for International Development

Endnotes

1 I would like to thank my 17 interview partners, who have allowed me to gain highly valuable insights into humanitarian negotiations in north-western Syria by sharing their experiences and stories, which added immense value to my research.

 2 Due to the veto by Russia and China in the UN Security Council in July 2020, only one of the previous four cross-border operations is still authorised.

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