



MOBILE CLINIC VACCINATION IN KANDAHAR © HIROMI YASUI

PROTECTING AID WORKERS

ACBAR Briefing paper to the Government of Afghanistan

A Call for Action

Afghanistan has become one of the most dangerous places in the world for an aid worker. Protracted internal armed conflict and disrespect for the rule of law threaten the safety and the lives of aid workers and the communities they work with. **One aid worker killed in their line of duty is one too many. Since January last year in Afghanistan, 49 aid workers were killed, 38 wounded and 30 kidnapped¹.**

The operating environment for NGOs is increasingly shrinking, and with it, their ability to reach out and support communities. As 2016 further descends into violence, with intensified ground engagement and continuing threats to civilians through bombs, explosive devices and suicide attacks, intimidation of civilians and military use of education and health facilities, the outlook is worrying. However, violence is not the only cause: misunderstanding of NGO's agenda and principles, mistrust at local level by both the State and non-state groups also hampers the security and work of NGOs on the ground with NGO

and humanitarian aid workers often the deliberate targets of intimidation and direct attacks.

NGOs are partners of development.

They deliver emergency and long-term relief as well as implementing essential services for vulnerable populations and bridging the gap in places where government services are not available. Safeguarding the operating space of NGOs not only means protecting aid workers, it ensures the population receives the assistance they are entitled to.

As the Government of Afghanistan and international community gather in Brussels to reaffirm financial commitment to Afghanistan's future, **safeguarding aid workers should be recognized as a key condition to development.** The Afghanistan National Peace and Development Framework states the importance of protecting the operating space of civil society organizations: at Brussels we expect concrete steps to be outlined to ensure that these words are put into action.



ACBAR

ACBAR, the Agency Coordinating Body for Afghan Relief & Development, is an Afghan independent body bringing together 151 national and international NGOs working in Afghanistan and abiding by the humanitarian principles of independence, neutrality, impartiality and humanity.



Brussels Conference on
AFGHANISTAN
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Recommendations to the Afghan Government

1. Accountability vis-a-vis International Humanitarian Law (IHL) & International Human Rights Law

Afghanistan is a party to the four Geneva Conventions of 1949 and to Additional Protocol II of 1977, which address the protection of civilians in a non-international armed conflict and prohibits attacks against civilians and objects indispensable to the survival of the civilian population, such as schools or health facilities. Afghanistan is also the signatory of a number of International Human Rights Treaties.

- **Concrete steps should be taken against impunity.** Violation of International Humanitarian Law and International Human Rights Law involving civilian casualties should systematically be investigated by an independent and permanent professional body as recommended by UNAMA², and prosecuted and punished by the relevant court and administrative structure
- We welcome the Ministry of Interior's initiative to create a policy on the handling of Gross Violations of Human Rights (GVHR) and create a balanced, independent board that tracks and reports such violations. We highlight **the need to properly train police personnel at provincial level and to increasingly ensure GVHR offences are prosecuted by the office of the Attorney General**
- The Ministry of Defense should adopt a Criminal Code, as agreed in the Master Ministerial Plan 2015-16. It should cover all measure crimes including GVHR.
- Government agencies should maintain full cooperation with Afghanistan Independent Human Rights Commission, promoting its independence as well as of ensuring their safety and providing sufficient government financing to strengthen its institutional capacity.
- A presidential decree should **safeguard humanitarian premises and NGO place of work, such as schools and health facilities.** It should forbid Afghanistan National Security Forces (ANSF) operations, like raids, searches and checkpoints in and around the premises as well as military and political appropriation of the facilities. **The government should ensure the implementation of the six principles listed in the Safe School Declaration** signed in May 2015.
- **Increasing efforts should be made to train ANSF and authorities on applying International Humanitarian Law.** Awareness and training should include respect of humanitarian space and principles. We recommend the Afghan National Army Legal School to scale up its capacity and training with ICRC and reach out to personnel at district level. While IHL is accepted to some extent by higher levels of ANSF leadership, misunderstandings at the local level by ANSF troops is more frequent: training should primarily focus on local/tactical level forces.

HUMANITARIAN PRINCIPLES

We call all parties to the conflict to respect NGOs adherence to the International Humanitarian Principles

- **Humanity:** Human suffering must be addressed wherever it is found. The purpose of Humanitarian action is to protect life and health and ensure respect for human beings.
- **Neutrality:** Humanitarian actors must not take sides in hostilities or engage at any time in controversies of a political, racial, religious or ideological nature.
- **Impartiality:** Humanitarian action must be carried out on the basis of need alone, giving priority to the most urgent cases of distress and making no distinctions on the basis of nationality, race, gender, religious belief, class or political opinions.
- **Independence:** Humanitarian action must be autonomous from the political, economic, military or other objectives that any actor may hold with regard to areas where humanitarian action is being implemented.

2. Rapid application of the National Policy on Casualty Mitigation

- We welcome the finalization of the National Policy on Civilian Casualty Mitigation, **and encourage the rapid adoption and publication of the policy to the public.** We reiterate UNAMA's call for an urgent completion of the policy action plan and implementation.
- **NGO workers are civilians and should therefore be clearly named and included as such in the policy.** The policy should also specifically address the special status of health facilities and workers, and refers to the four Geneva Conventions of 1949 and to Additional Protocol II.
- The policy, or associated policies, should be enforced by all security agencies, including the Afghan National Army, the National Directorate of Security and the Afghan National and Local Police.
- The development of the action plan should include specific objectives such as targets in reducing civil casualties, number of personnel trained. The plan should be rolled out down to the provincial and district level. **The objectives should be included in the revised SMAF.**

3. Awareness of NGOs and application of the NGO law

- There should a better understanding of the identity and work of NGOs by government bodies. While it is the primary responsibility of NGOs to raise awareness, **political support from the Ministry of Economy should be reinforced, especially to reach other government agencies.**
- Government entities should respect the core principles of NGOs: **"Humanity"** (addressing human suffering), **"Neutrality"** (not taking sides in hostilities or engaging in political, racial, religious or ideological activities), **"Impartiality"** (carrying out activities on the basis of need alone) and **"Independence"** (being autonomous from the political, economic, military agenda).
- **Security agencies should adhere to Article 46** of the NGO Law that states *"security bodies can acquire information concerning the activities of organizations only through the Ministry of Economy"*.

UNAMA FACTS JANUARY-JUNE 2016

5,166

Civilian casualties (1,601 deaths and 3,565 injured) recorded by UNAMA between January 1st and June 30th 2016.

46

Conflict-related incidents targeting education and education-related personnel that resulted in 15 civilian casualties (five deaths and 10 injured)

64

Conflict-related incidents targeting healthcare and health personnel resulting in 11 civilian casualties. A 45 per cent increase compared to the same period in 2015.

FOR MORE INFORMATION

According to its mandate from the Security Council, the United Nations Assistance Mission in Afghanistan (UNAMA) produces regular reports on the protection of civilians in armed conflict in Afghanistan. Since 2012, the reports have been prepared jointly with the UN Office of the High Commissioner for Human Rights (OHCHR)

<http://unama.unmissions.org/protection-of-civilians-reports>

4. Respect of NGO impartiality, neutrality and independence

Political interference and misuse of aid

- NGOs should be able to conduct independent assessments of the needs and base their response **according to the vulnerability of the population and the mandate of the organizations**. While aid programs can and should be informed by data and information from government authorities, it should not be dictated by them.
- We call for a **clear commitment to non-interference from authorities, especially at local level**. When provincial officials have been alleged to abuse their power, attempted to influence NGO for reasons other than the provision of humanitarian assistance, have gained from the selection of beneficiaries, or received portions of the items distributed to beneficiaries, cases should be investigated and transparently addressed.
- Authorities should respect the **confidential information of NGOs**: sensitive information such as beneficiary list and contacts is the property of the NGO alone.

Safeguarding NGO operating environment demands first and foremost a political will. Implementing these measures will not only reinforce partnership between NGOs and government but also allow a more efficient implementation of humanitarian and development program.

However, **compliance by NGOs to humanitarian principles and to the values of accountability and transparency is an essential requirement**. We therefore also urge all NGOs working in Afghanistan to set the example, by strictly abiding to the NGO code of conduct (2004), and reflect in their actions the principles of Humanity, Impartiality, Neutrality and Independence.

Breach of neutrality and no-weapon policy

- **NGOs should be able to operate without risking to be affiliated to any armed group and party of the conflict**. Presence of security personnel in the location of NGO activities (for example during distribution of aid or during assessment surveys) and non-respect of the NGO no-weapon policy are negatively impacting on the perception of the NGOs as neutral organizations.

Breach of independence

- While NGOs welcome the monitoring visits of line government agencies and shall facilitate as far as possible the logistics of such visit, NGOs should not be required to pay salaries, per diems, air travel, accommodation, meal costs or the equivalent to government monitoring teams.

NGO CODE OF CONDUCT

The Code of Conduct is a set of shared norms, principles and values that aims to guide the conduct of NGOs in Afghanistan.

Any NGO operating in Afghanistan and registered with the Ministry of Economy is eligible to sign the Code of Conduct.

1. We are committed to comply strictly with international humanitarian principles and human rights law.
2. Our work is based on the principle of DO NO HARM
3. We are accountable to those whom we seek to assist, to those providing the resources, and to legal authorities.
4. We are transparent in our dealings with the government and community partners, the public, donors and other interested parties.
5. We are independent and we strive to maintain our autonomy according to Afghan and international law, and to resist the imposition of conditionality or corrupt practices that may compromise our missions and principles.
6. We will not discriminate against any individual or group on the grounds of gender, political affiliation, ethnic origin, religious belief, physical disability or sexual orientation.

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RESSOURCES

¹ Aid Worker Security, 2016. *Security incident data - Afghanistan*. [Online] Available at: <https://aidworkersecurity.org/incidents/search?start=2015&detail=1&country=AF>

² UNAMA OHCHR, 2016. *2016 Mid-Year Report Protection of Civilians in armed conflicts*, s.l.: s.n.

³ UNAMA OHCHR, 2016. *2016 Mid-Year Report Protection of Civilians in armed conflict*, s.l.: s.n.