

***Do No Harm Guidance Note for defining humanitarian engagement when serious humanitarian and protection concerns are present***

**1. Introduction and Objective**

The humanitarian community in Iraq continues to be confronted with complex operational and protection issues which challenge core humanitarian principles. Such situations require thorough analysis of the risks associated with on-going and/or planned interventions, as means to strategically define if and how humanitarian actors should engage in specific contexts. Consequently, humanitarian actors often must assess how to best respond to the humanitarian imperative without compromising commitments to humanitarian principles, human rights-based approaches and the do no harm principle.<sup>1</sup> While these issues may arise in a diversity of contexts, the most critical situations in Iraq are when fundamental human rights, such as the right to freedom of movement and the right to liberty and security of the person, are in jeopardy in IDP camps or other sites they live in.

The purpose of this document is to assist humanitarian actors in analyzing these complex situations by (1) identifying risks; (2) developing risk mitigation measures, and (3) defining how humanitarian assistance should be provided (including which activities should not be implemented because of critical risks that cannot be effectively mitigated). The analysis of complex situations and the definition of a strategy of engagement can only be accomplished on a case-by-case basis. This Guidance Note is therefore meant to be a reflective tool, rather than a prescriptive one. For this reason, the document only includes a series of guiding questions, risk scenarios and associated mitigation measures that ought to be considered when planning or implementing activities in complex situations. The document does not include specific recommendations as to which level of assistance should be provided for a specific scenario. The Humanitarian Country Team (HCT) may therefore decide on the common position vis-à-vis level of assistance to a determined location or situation if critical risks cannot be effectively mitigated. The list of questions, risks and mitigation measures should not be considered exhaustive and may be complemented by other elements and/or considerations.

**2. Process and implementation**

<b>Step 1</b>	<b>Step 2</b>	<b>Step 3</b>
<p><b>Inter-Cluster Assessment or Mission**</b></p> <p>(a) Conducts a multi-sectoral assessment in the location where serious rights-violations and violations of humanitarian principles have been reported;</p> <p>(b) Provides the ICCG with a report advising on how to engage at the location respecting humanitarian principles and without causing harm, including through the identification of risks, the development of mitigation measures and recommendations regarding which activities should or should not be implemented.</p> <p><i>**Deployment of an Inter-Cluster mission might not always be required to assess a site (e.g. If multi-sectoral information shared</i></p>	<p><b>ICCG/HCT</b></p> <p>(c) The ICCG reviews the report, including the major risks identified, the proposed mitigation measures and the recommendations on how assistance should be provided. After endorsement, the ICCG communicates its recommendations to the HCT.</p> <p>(d) Simultaneously, advocacy is pursued at the local level with the relevant authorities through the relevant coordination mechanisms, including MoDM, JCMC or/and JCCC focal points and Governorate Returns Committee (GRCs) members and coordinated bilateral outreach.</p>	<p><b>Partners and other stakeholders</b></p> <p>(f) The strategy of engagement, as well as the types and modalities of assistance – including information about activities which might not be implemented - is communicated to partners to ensure a common approach and a uniform implementation of the response;</p> <p>(g) Under the relevant Clusters’ guidance and support, partners stage interventions in accordance with the agreed-upon strategy of engagement</p> <p>(h) Key messages are prepared and shared with affected community members to ensure that the decision made on the level and modalities of humanitarian assistance are understood by IDPs;</p>

<sup>1</sup> The principle of “do no harm” requires humanitarian organizations to strive to minimize the harm they may inadvertently cause through providing humanitarian assistance, as well harm that may be caused by not providing humanitarian assistance.

<p><i>by Cluster partners active in the area/location is verifiable, accurate, and timely to enable to Clusters to compile relevant info/report to submit to HCT).</i></p>	<p>(e) The HCT meets and based on the evidence provided and the ICCG recommendation makes a final decision on how to strategically engage at the location.</p>	<p>(i) In situations where critical risks cannot be effectively mitigated and some activities are not implemented, the HCT endorses or revises the strategy of engagement, as well as the modalities of assistance – including information about activities which might not be implemented - on a regular basis (monthly, at a minimum), or in case there is a significant change in the situation.</p>
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✓ **The Principles**

1. **Humanity:** *Human suffering must be addressed wherever it is found. The purpose of humanitarian action is to protect life and health and to ensure respect for human beings.*

Guiding questions

- *Does the situation require the intervention of humanitarian actors to address human suffering, protect life and health, and ensure respect for human dignity?*
- *How would the provision of humanitarian assistance – or lack thereof – affect the severity of needs of the affected population?*
- *Are there any activities that cannot be reduced or suspended without posing a direct risk to the life, physical and psychological integrity of the affected population?*
- *Does the provision of assistance inadvertently sustain patterns and systems of rights-violations and thus indirectly contribute to generating human suffering in the long-term?*

Risk scenarios	Mitigation measures
<p>The provision of humanitarian assistance may contribute to sustaining systems and policies of marginalization, as well as patterns of rights-violations, but evidence is limited.</p>	<ul style="list-style-type: none"> <li>• Provide assistance and services as planned and based on needs, but strengthen protection trends analysis through the following interventions: protection assessments and/or protection monitoring by humanitarian partners; inter-agency mission, which might include UNAMI Human Rights Office (UNAMI HRO). The above interventions may be combined to reinforce the evidence base and should be conducted over a minimum period of 6 months to determine whether the protection situation is improving or deteriorating.</li> <li>• Active engagement with the affected communities to understand the extent of the issues and necessary adjustments in the interventions, if feasible.</li> </ul>
<p>The provision of humanitarian assistance contributes to sustaining systems and patterns of rights-violations that generate human suffering in the long-term, and strong evidence exists.</p>	<ul style="list-style-type: none"> <li>• Inter-agency mission, which might include UNAMI HRO and engagement in high-level advocacy (HC/HCT, UN Human Rights Instruments, Diplomatic engagement etc.) to highlight the violations and identify policy-level recommendations, if feasible. Risk analysis in terms of communications (public or private engagement with stakeholders to be conducted beforehand).</li> <li>• Following a reflection on the criticality of aid, limit the level of assistance to life-saving activities, i.e. assistance and services which are essential to the life, physical safety and dignity of the affected population. All other activities should be considered non-essential and therefore discontinued or suspended.</li> <li>• Active engagement with the affected communities to understand the scope of the issues and necessary adjustments in the interventions, if feasible.</li> </ul>

**2. *Neutrality: Humanitarian actors must not take sides in hostilities or engage in controversies of a political, racial, religious or ideological nature.***

Guiding questions

- Are humanitarian actors able to provide assistance without taking sides in conflicts and controversies of a political, tribal, racial, religious or ideological nature?
- Does providing assistance adversely impact conflict dynamics and increase tensions of a political, tribal, racial, religious or ideological nature at the location?
- Does providing assistance adversely affect the perception among the affected population, civilian authorities and security actors that humanitarian actors are neutral?

Risk scenarios	Mitigation measures
<p>The provision of humanitarian assistance increases or is seen to increase conflict along political, sectarian, tribal or religious lines or otherwise increase social tensions.</p>	<ul style="list-style-type: none"> <li>• Prior to providing assistance, conduct a mapping and analysis of conflict dynamics along political, sectarian, tribal or other social tensions to identify the main drivers and actors of the conflicts(s) and to assess how they affect the local context and population. Based on this analysis, develop a strategy for conflict-sensitive intervention(s) which will enable humanitarian actors to provide assistance and services without directly or indirectly fuelling the dynamics of the conflict. This should ensure that no material aid, political support or legitimacy is given to the parties of the conflict – even inadvertently – and ensure impartial and transparent targeting of locations and population groups.</li> <li>• In the event that effectively designing or implementing a conflict-sensitive strategy of intervention is not possible, humanitarian actors should reflect on the criticality of aid and review existing programs and limit the level of assistance to activities which are either life-saving or which can be implemented without fuelling conflict. This should be done on a case-by-case basis; activities which are not lifesaving and cannot be implemented in a conflict sensitive-manner should be discontinued or suspended.</li> <li>• Depending on the nature of the assistance provided, post-distribution monitoring (PDM) systems may be tailored to the risks identified in the location (e.g. for cash and non-food items, monitoring should include elements to identify possible diversion for military or political aims, through verification of usage in addition to market monitoring).</li> <li>• Active engagement with the affected communities to understand the scope of the issues and necessary adjustments in the interventions, if feasible.</li> </ul>
<p>The provision of humanitarian assistance results in some or all stakeholders not perceiving humanitarian actors as being neutral.</p>	<ul style="list-style-type: none"> <li>• Develop a communication strategy targeting, first and foremost, the affected population but also other population groups, civilian authorities, military or security actors etc. to highlight the nature of the humanitarian work (humanitarian principles) and explain the scope and nature of the interventions. Depending on the context, messages must be carefully drafted as to not put humanitarian actors at risk.</li> <li>• Conduct regular monitoring and consultations with the concerned stakeholders to determine whether the communication campaign has effectively impacted their perception of humanitarian actors as being neutral and ensure they understand why certain interventions are undertaken or not</li> </ul>

**3. *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.***

Guiding questions

- Does the situation allow humanitarian actors to prioritize the most critical needs of the individuals in the site and compared to other areas and/or population groups?
- Are any specific national, racial, religious, political or social groups prioritized for the provision of assistance on any other grounds than needs alone?

- *Would the decision to provide – or not to provide - humanitarian assistance be motivated by any other factor than humanitarian and human rights objectives, including considerations related to politics, social pressure, public image, funding or others?*
- *Would the decision to provide – or not to provide - humanitarian assistance result, intentionally or unintentionally, in the discrimination or marginalization of specific national, racial, religious belief, political or social groups, including in the long-term?*

Risk scenarios	Mitigation measures
The provision of humanitarian assistance is motivated by considerations others than purely humanitarian.	<ul style="list-style-type: none"> <li>• Conduct a comparative analysis of needs assessments across different locations and population groups to ensure that the assistance provided is proportionate to and solely based on the needs of the affected population.</li> <li>• Avoid using funding streams restricted to specific type of locations and/or population groups if the targeting is influenced by political interests and agendas and not evidence-based.</li> <li>• Clusters to conduct advocacy with donor communities on the prioritization considerations for the areas and seek support for re-evaluation of funding streams.</li> </ul>
The provision of humanitarian assistance inadvertently entrenches the discrimination or marginalization of specific social groups.	<ul style="list-style-type: none"> <li>• Conduct high-level advocacy with the authorities through the best placed coordination mechanisms at the national and/or local level to ensure that social groups which are marginalized and discriminated against are not isolated at a specific site (or within a specific site) to avoid increasing their stigmatization, unless this is a measure of last resort to ensure their physical safety. Rather, support social inclusion within and outside the site by advocating for unrestricted freedom of movement and other fundamental human rights and by implementing activities that support social cohesion and diversity.</li> </ul>

**4. 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.*

Guiding questions:

- *Are there requirements or restrictions put in place by civilian authorities or security actors that seriously compromise the independence of humanitarian actors?<sup>2</sup>*
- *Does the provision of assistance by humanitarian actors – or lack therefore - directly or indirectly aligns with the political interest of civilian authorities and/or security actors?*
- *Are civilian authorities and/or security actors trying to influence the decision of humanitarian actors to continue, reduce or stop providing assistance and services?*

Risk scenarios	Mitigation measures
Humanitarian actors are not able to operate independently from civilian authorities and/or security actors who effectively influence how, where and to whom humanitarian assistance is being provided	<ul style="list-style-type: none"> <li>• Conduct high-level advocacy with civilian, security and authorities through the best placed coordination mechanisms at the national and/or local level against such restrictions and influence and emphasise the humanitarian character of the interventions.</li> <li>• Define the requirement for a minimum level of independence to be met as a condition for humanitarian assistance to be provided. These should include, at a minimum, independent access to and selection of beneficiaries, respect for the civilian character of humanitarian operations and protection of confidential data about the affected population.</li> <li>• Review each humanitarian activity to determine whether the positive humanitarian impact of providing such assistance/service outweigh the adverse consequences of not being independent.</li> </ul>

<sup>2</sup> These may include, but are not limited to, issues of aid diversion, free and safe access to the affected population, independent beneficiary selection, protection of confidential data pertaining to affected population, etc.

	<ul style="list-style-type: none"> <li>• Active engagement with the affected communities to understand the scope of the issues and necessary adjustments in the interventions, if feasible.</li> </ul>
The provision of humanitarian assistance may be directly or indirectly aligned with the political interests of civilian authorities or security actors, but there is limited evidence for it.	<ul style="list-style-type: none"> <li>• Complement humanitarian needs analysis with political and conflict analysis, with the support of relevant actors with an expertise on political affairs and peacebuilding.</li> <li>• Active engagement with the affected communities to understand the scope of the issues and necessary adjustments in the interventions, if feasible.</li> </ul>
The provision of humanitarian assistance is directly or indirectly aligned with the political interests of civilian authorities or security actors, and there is strong evidence for it.	<ul style="list-style-type: none"> <li>• Engage in strategic discussions between the humanitarian leadership and political affairs and peacebuilding actors to define how to reshape the strategy of humanitarian interventions in ways that would be less aligned with the political agenda of civilian, security or military authorities.</li> <li>• Review each humanitarian activity to determine whether the positive humanitarian impact of providing such assistance/service outweigh the adverse consequences of serving the political interest of external actors.</li> <li>• Active engagement with the affected communities to understand the scope of the issues and necessary adjustments in the interventions, if feasible.</li> </ul>

**5. Do no harm:** *Humanitarian actors must prevent and/or mitigate any adverse effects of their interventions which can increase people’s vulnerability to both physical and psychosocial risks. If the possible risks outweigh the expected benefits of the intervention, humanitarian actors need to reconsider the design of their intervention.*

Guiding questions:

- Does providing humanitarian assistance effectively protect the affected population from the threats they are exposed to, including by reducing their vulnerabilities to those threats and increasing their capacities to address them?
- Is the humanitarian assistance being provided a contributing factor, direct or indirect, to the threats faced by the affected population?
- Would providing – or not providing – humanitarian assistance create new threats to the physical and psychological integrity of the affected population?
- Would providing – or not providing – humanitarian assistance significantly increase the vulnerability of the affected population in relation to existing threats or would it significantly diminish their capacity to address such threats?

Risk scenarios	Mitigation measures
The provision of humanitarian assistance is a direct or indirect contributing factor to the threats affecting the population.	<ul style="list-style-type: none"> <li>• Conduct a community-level protection assessment and risks analysis prior to the design and implementation of assistance, so as to clearly identify the threats affecting the population and to define strategies of interventions which effectively address them, including by enhancing the capacities of the affected population for self-protection. Such an exercise should be repeated at regular intervals – possibly quarterly – to effectively monitor the situation and measure the impact – positive or negative - of ongoing assistance on the risk level of the affected population. Protection monitoring mechanisms should be strengthened when there are concerns that the intervention may not be sufficient to reduce vulnerabilities.</li> <li>• Active engagement with the affected communities to understand the scope of the issues and necessary adjustments in the interventions, if feasible.</li> </ul>
The humanitarian assistance provided does not effectively reduce the vulnerability of the population in relation to those threats and/or does not improve the population’s capacities to address them.	<ul style="list-style-type: none"> <li>• Conduct a community-level protection assessment and risks analysis, so as to clearly identify the threats affecting the population and to define strategies of interventions which effectively address them, including by enhancing the capacities of the affected population for self-protection. Such an exercise should be repeated at regular intervals – possibly quarterly – to effectively monitor the situation and measure the impact – positive or negative - of ongoing assistance on the risk level of the</li> </ul>

	<p>affected population. Protection monitoring mechanisms should be strengthened when there are concerns that the intervention may not be sufficient to reduce vulnerabilities.</p> <ul style="list-style-type: none"> <li>• Active engagement with the affected communities to understand the scope of the issues and necessary adjustments in the interventions, if feasible.</li> </ul>
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**6. Rights-based approach:** *Humanitarian actors should respect, protect and promote the rights of affected population and should help individuals and communities claim their rights towards the fulfilment of all the rights enshrined in international human rights, humanitarian and national law.*

Guiding questions:

- Does providing assistance and services allow humanitarian actors to effectively monitor, report, address and advocate on rights violations?
- Does the imperative to provide assistance and services prevent or undermine the capacity of humanitarian actors to effectively monitor, report, address and advocate on rights violations, for instance through strategies of self-censorship to maintain access and acceptance?
- Is the provision of assistance and services by humanitarian actors in spite of serious rights violations perceived as an act of endorsement or legitimization of the actors, actions or policies responsible for such violations?
- Are humanitarian actors the best placed to address the scope and gravity of the rights violations or would the situation be better addressed by other organizations with a specific mandate and expertise to protect human rights in places of detention?

Risk scenarios	Mitigation measures
The imperative to provide assistance and services undermines the capacity of humanitarian actors to effectively monitor, report, address and advocate on rights violations due to operational or political constraints, including strategies of self-censorship to maintain access and acceptance.	<ul style="list-style-type: none"> <li>• Engage in discussions and establish clear reporting channels with UNAMI HRO, so that humanitarian actors can share information (within the limits of data protection standards and data-sharing agreements) that feed into further actions and advocacy of human rights institutions and instruments.</li> <li>• Regularly reassess the interventions to determine whether conditions improve or deteriorate. If the latter, evaluate the criticality of implementing the interventions against life-saving needs.</li> </ul>
The provision of humanitarian assistance in spite of rights violations is perceived as endorsement, legitimization or complicity by civilian authorities, security actors or affected communities.	<ul style="list-style-type: none"> <li>• Ensure that the humanitarian community in-country speaks out against serious human rights violations – bilaterally with the authorities and/or publicly – and ensure that advocacy efforts are clearly communicated to and understood by all relevant stakeholders, first and foremost the affected population. If only bilateral advocacy can be done, humanitarian actors should develop tailored messages to affected communities on the humanitarian principles and how they are being upheld.</li> <li>• Regularly reassess the interventions to determine whether conditions improve or deteriorate. If the latter, evaluate the criticality of implementing the interventions against life-saving needs.</li> </ul>
The conditions at the site/location in terms of violations of the right to freedom of movement and right to liberty are such that they amount to detention.	<ul style="list-style-type: none"> <li>• Engage in discussion with relevant mandated actors to determine whether the violations of the right to freedom of movement and right to liberty imposed at the site are equivalent to those of a detention facility. If the site is a detention or detention-like facility, the HCT/HC should discuss with relevant actors with expertise on detention matters to divide roles and responsibilities and to decide what level of engagement and activities should be implemented, and whether certain activities should be discontinued or suspended. The decisions should then be clearly communicated to relevant stakeholders, humanitarian actors, local authorities and the affected population. Advocacy should be conducted throughout to ensure improvements of the situation.</li> </ul>