Residual Risk Acceptance
An Advocacy Guidance Note

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Humanitarian Outcomes

An independent organisation providing research evidence
and policy advice to inform better humanitarian action

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Introduction

This guidance note is one of four research products emanating from the 2016 NGOs and Risk study, conducted by Humanitarian Outcomes for InterAction with the participation of 14 major international NGOs.[1]

In workshops discussing the study's findings, participating NGOs agreed that a particular obstacle to ensuring principled humanitarian action in high-risk environments was an insufficient understanding and acceptance of "residual risk" on the part of donors as well as, at times, NGOs' boards and executive structures.

To address this gap, the NGOs tasked Humanitarian Outcomes with creating an advocacy guidance note on residual risk. The guidance note is intended for organizations to use in developing advocacy strategies aimed both internally and externally. It draws upon the original primary research of the study (interviews and NGO policy documentation), as well as a small number of additional consultations, and it incorporates the findings of recent related studies, such as those from the research program on Secure Access in Volatile Environments (SAVE).

The purpose of this document is to recapitulate the concept of residual risk and how it is applied in operational decisions and to provide guidance for NGO decision-makers on communicating with key stakeholders on this critical concept. To do so, it follows the basic structure of an advocacy strategy outline[2], incorporating the following components:

1. Problem

2. Goal

3. Objectives

4. Actor Mapping

5. Messages

6. Tools/Actions

7. Opportunities

8. Monitoring and Evaluation

In this way, it aims to serve as a template for individual organizations to develop advocacy strategies on residual risk, as well as lay out a set of principles for potential collective action.

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1   Participating NGOs were Action Contre La Faim, Catholic Relief Services, CARE, Concern, Danish Refugee Council, International Medical Corps, International Rescue Committee, Islamic Relief Worldwide, Mercy Corps, Médecins Sans Frontières Holland, Norwegian Refugee Council, Oxfam, Save the Children, and World Vision. Funding for the study came from the U.S. Office of Foreign Disaster Assistance and the U.S. Department of State Bureau of Refugees, Population, and Migration. The full report of the study, as well as a risk management handbook and risk register tool, can be found at humanitarianoutcomes.org/ngos-and-risk.

2   Adapted from advocacy strategy formats used by Oxfam International and CARE, which can be found at careemergencytoolkit.org/assets/files/de903b73-c672-4247-9808-cac6475af346.doc

1. Problem: A need for better understanding and explicit acceptance of residual risk

Providing aid in conflicts and disasters will inevitably entail certain risks, including potential incidents of violence, accidents, corruption, diversion, program failure, and other possible negative outcomes. In light of the increasingly hazardous environments in which they operate, many international humanitarian NGOs have developed comprehensive risk management frameworks, sometimes called "enterprise risk management," to enable effective programming while better protecting their personnel, assets, operations, and reputations.

But risk management, no matter how well conceived and implemented, cannot eliminate risk; it only reduces the likelihood of its occurrence, and mitigates against the potential consequences. It is the responsibility of the organization to identify and take all reasonable actions to reduce the risk as far as possible, and having done so, to decide if the remaining, or "residual" risks, are acceptable or not. This decision should be weighted according to the severity of need and the resulting criticality of the humanitarian response. The *NGOs and Risk* study found that this concept of **program criticality,** while implicitly considered, is not formally measured and factored into most NGOs' risk management frameworks. More recent research on decision making in high risk environments (Haver, Forthcoming) has emphasized that balancing risks with criticality is essential for sound and ethical decision-making (see "Balancing Risk with Criticality" visual model on page 6). Finally, it is not only the responsibility of implementing humanitarian actors but also that of donors and governing bodies to likewise acknowledge and accept this residual risk, in light of the criticality of the program, without dis-incentivizing humanitarian action with the prospect of reprisals.

It is therefore critical that organizations understand and address the concept of residual risk, both inside the organization and with external partners. However, NGOs have found this to be a principal stumbling block in risk management, with potentially disabling effects on humanitarian action in high-risk areas.

Externally, donors have often been unwilling to explicitly acknowledge and accept the likelihood of program losses that may arise in war zones and lawless areas, where humanitarian needs are often greatest. Even when an individual donor representative is attuned to the issues, and offers verbal assurances to an NGO representative that the NGO will not be held liable for losses occurring after all appropriate mitigating measures have been taken, the (well-founded) fear remains that these assurances will have no standing with auditors or inspectors general down the line (Stoddard, Haver, & Czwarno, 2016). This results in what some see as an unfair risk transfer, with donors shifting their own fiduciary and reputational risks to NGOs, which may be on the hook for losses and serve as cover when things go wrong.

Internally, an NGO may have a board of directors or senior executives that either do not understand the concept of residual risk acceptance or are averse to addressing the issues directly. This is more often the case in multi-mandated organizations[3], where programming in high-risk conflict areas is the exception rather than the norm. Depending on the organizational culture, the problem can manifest in one of two ways. Some organizations may have an aversion to establishing necessary controls and mitigation measures, because to do so would seem excessively bureaucratic, distrustful and potentially disempowering of staff. Other NGOs may exhibit the opposite problem, tending toward an overly centralized approach to management controls driven by fear of litigation, which limits the ability to operate in dangerous places. To be effective advocates externally, an NGO must first ensure that a critical mass of its staff fully

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3   *A multi-mandate organisation is one that responds to emergency humanitarian crises, as well as broader issues related to poverty, human development, and social justice. The large majority of organisations working in conflict are multi-mandate. ICRC and MSF are the two organisations most frequently described as single mandate agencies, meaning "they work only with an emergency humanitarian mission based in international humanitarian law and humanitarian principles" (Slim & Bradley, 2013). Organisations can also be conceived of on a spectrum, based on how focused they are on the humanitarian mission (i.e. how close to "single mandate" they are).*

understand and feel invested in a particular issue, including and especially its governing officers. Shifting or creating an organizational culture around an issue "is in many ways the outcome of internal advocacy" (Fox, H., consultation, 2016).

Finally, the more complex the topic, the more difficult the advocacy task. The depth, breadth, and complexity of holistic risk management and the concept of residual risk pose considerable challenges in condensing concepts into clear and forceful messages.

2. Goal

The overriding goal of advocacy on this issue is to reach a mutual understanding of acceptable residual risks and responsibility, across all risk categories. Organizations and donors do not need to agree on specific numbers or ratios formally deemed to be "acceptable losses" for security or fiduciary risks. This kind of calculation is neither practical nor ethically appropriate. Rather, the goal of advocacy strategies on this issue can be framed as:

An explicit acknowledgement and acceptance of residual risks among stakeholders, resulting in binding commitments on "risk sharing."

The idea of "risk sharing" means that donors would not use NGO implementers as a way to mitigate their own risk, using watchdog entities (e.g., the U.S. Office of the Inspector General) in an adversarial or "gotcha" role, but rather would make jointly acknowledged risk a stated part of the partnership in delivering the humanitarian response. Risk sharing thus serves both to "increase one's risk acceptance and allow critical activities to proceed, [and] as a form of risk mitigation, i.e. by talking to donors/partners and convincing them to share the risk, one lowers the likelihood or impact of possible negative repercussions" (Haver, Forthcoming).

3. Objectives

The specific advocacy outcomes to pursue will depend on the programming of the individual NGO and the stakeholders targeted. As seen in the examples below, objectives could range from relatively modest to highly ambitious, as well as for an individual organization or collective action initiatives. They could include:

- An annual process to solidify and formalize a common understanding among staff, senior executives, and board members of the specific residual risks involved in current programming and contingency plans for organizational response. This could involve workshops and discussions at senior management and board level to promote an understanding of risk sharing, and/or a "signing-on" step of the risk management planning process.

- A written letter of agreement / memorandum of understanding on risk sharing appended to project agreements signed by both the donor and recipient organization. It would refer to assessed risks pertaining to the project and the donor's explicit acceptance of the residual

risks as a shared undertaking in the joint effort to enable humanitarian action in challenging environments. Further, it would commit the NGO to undertake all appropriate mitigating actions to minimize the residual risk, with the understanding that having done so, it will not be held liable for losses or subject to punitive actions resulting from a realized risk.

- For government donors, new national legislation to incorporate the risk sharing commitment into a national humanitarian policy, specifically to protect humanitarian actors from undue controls, legal burdens, or financial penalties resulting from work carried out in high-risk, high-need areas for purely humanitarian purposes.

- A formal statement adopted by the membership of the Good Humanitarian Donorship (GHD) platform, committing to the principle of risk-sharing enabling humanitarian action in high-risk areas. This could contain specific actions to be taken in grant-making, communicating to the general public and promoting inter-agency understanding among other parts of government.

- A UN General Assembly resolution affirming the need for enabling humanitarian action in conflict zones and supporting the principle of humanitarian exemptions and waivers in situations of critical need.

Two important caveats should be noted. First, demonstrated commitment on the part of NGOs to transparency and rigor in reducing residual risk will be vital to successful advocacy. Recent experience with predatory vendors exploiting NGOs' cross-border operations into Syria, for example, have exposed some deficits in procurement controls, which the NGOs involved readily admit will need to be addressed before they can make a stronger case for acceptance of residual fiduciary risks there. Rebuilding confidence will require NGOs to be able to clearly depict and explain their risk management processes and overall systems of internal oversight and control to their donors. (COSO, 2013; IIA, 2013)

Second, the above objectives will likely need to be broken down further by type of risk and prioritized according to what is most actionable and achievable. For example, the risk of human casualties or of resources being diverted to terrorists is likely a less realistic target for residual risk acceptance than procurement and contracting corruption or operational shortfalls. One task of advocacy is to identify where progress can be made and focus on "the doable thing."

# 4. Actor Mapping and Power Analysis: advocacy targets, leverage points, and allies

A complete actor mapping as a component of an individual organization's advocacy strategy would include all institutions, specific offices, and individuals that are targets for influence due to their key roles on the issue and the power they possess to effect change. The mapping would also take into account the constituencies, incentives, and perceptions of these actors.

The below matrix is a broad sampling of the possible key internal and external advocacy targets, leverage points or potential catalysts, and allies to involve in the actions and activities. Because it focuses only on "(a) the key people and institutions you need to target to bring about the changes you have identified in your advocacy objectives, [and] (b) the people or institutions who can influence your key targets" (Save the Children), it conforms more to what is called a stakeholder or power analysis.

Sample power/stakeholder analysis

Power/influence (vertical axis)

Interest (stake) (horizontal axis)

High importance, low-interest targets
- National legislators
- Inspector General offices and/or national audit institutions
- US Office of Foreign Assets Control (OFAC)
- UK Charity Commission
- EU Court of Auditors
- UN Security Council
- UN General Assembly

Priority targets
- Donor agency senior officials
- UN Risk Management Units (RMUs)
- UN Project Control Officers
- Good Humanitarian Donorship (GHD) group

INTERNAL
- Board of Directors
- HQ senior executives

Potential messengers
- Media
- Public figures
- Private donors
- Philanthropic publications

Allies and leverage points
- Donor field staff/program officers
- UN ERC and IASC Principals
- NGO consortia issue platforms (ICVA, InterAction, EISF, CHS, Sphere)
- UNDSS
- Humanitarian Country Teams / Senior Management Teams
- NGO forums at country level
- National NGO partners

INTERNAL
- In-house Legal Counsel
- Internal audit and compliance teams
- Finance/audit committees
- HR units and staff organizations
- Memberships

Another way to construct a power analysis matrix is along the axes of 1) power/influence and 2) the extent to which they support or oppose your advocacy goal, as per below. This both enables the NGO to prioritize among targets and assess the degree of difficulty of the advocacy task.

Lot of Power/High influence

Opposed

Supportive

Less Power/Low influence
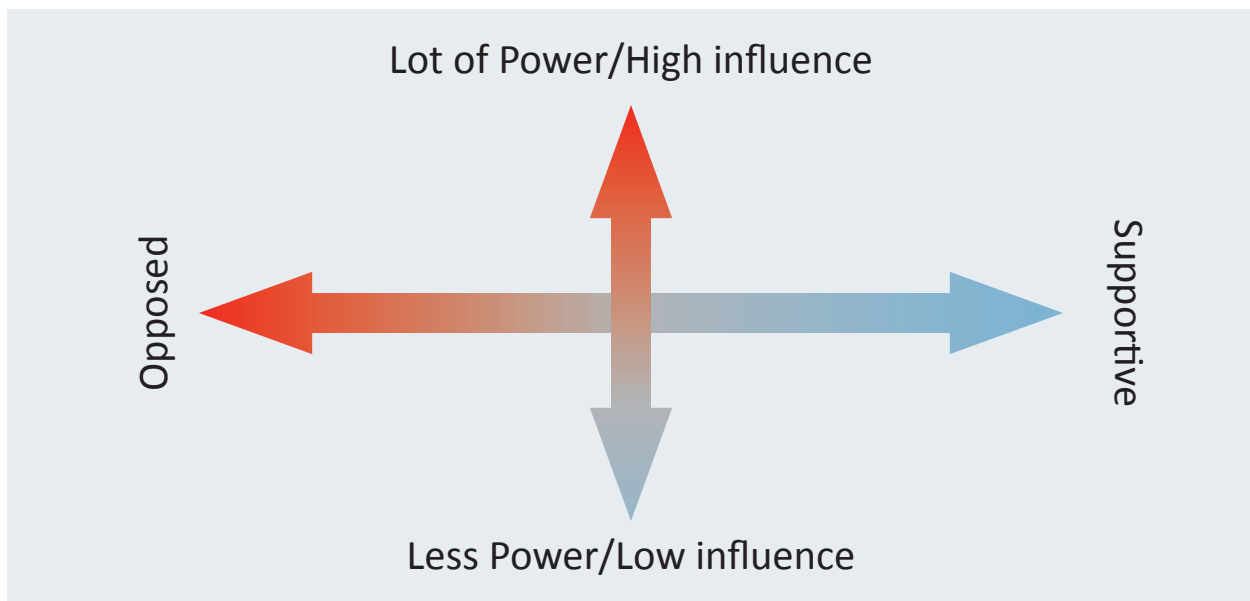
NGO consortia can play particularly important roles in convening and coordinating collective advocacy efforts aimed at the higher level targets, such as donor agency heads, and in campaigning for legislative and high-level policy change. At the same time, they can assume responsibility for creating an environment where NGOs are held to account for their commitments to minimizing residual risk. (InterAction may be an especially important actor, because much of the legal and fiduciary risk currently affecting humanitarian responders is US government-focused.) Getting the US, the EU, and other major donors together on the issue will be an equally important objective.

5. Messages

When crafting the critical messages to convey to key advocacy targets, is important not only to present the issues with brevity and clear, forceful language, but also to home in on mutual interests. In this way, the risk sharing approach can be a useful means for cultivating a "win-win" outcome with donors. When NGOs and donors are able to approach the problem with openness and in a partnership mindset, the result is increased transparency, accountability, and the diffusion of risk for both.

In messages to the media and general public, NGOs should be cognizant of how they have gotten in their own way in the past. There is a natural tendency for organizations to project an image of being in complete control, and, at times, to overstate the reach of their programming, even in the most challenging environments. This lack of candor about the challenges they face can come back to bite them when risks are realized. In truth, humanitarians are engaged in extremely difficult work in highly dangerous environments and struggling to manage the risks while assisting people in need to the best of their ability. The risk and difficulty of maintaining secure access and oversight should not be downplayed, either in private or in public (Stoddard & Jillani, 2016). This is particularly important in attempting to

shift the narrative of NGOs as corrupt and/or negligent operators, which has emerged in some sectors of the media.

Internal messaging is also highly important. Often NGO advocates will assume their colleagues all understand the issues and share the sense of importance, when this may not be the case. For instance, if risk management is still seen by many staff members as a bureaucratic hindrance imposed from above rather than an enabling framework, there is still work to be done internally.

6. Tools/Actions

The specific tools and actions chosen for use vis-à-vis the key targets can include lobbying of policy makers, behind-the-scenes briefings of policy staff, media outreach, popular mobilization campaigns (e.g., via social media), and the publication of joint statements and letters, among others. Among tactics that can be devised, the media can alternately represent a **target** (in the effort to redress the often negative image of NGOs), an **ally** (to influence policy makers), and a **tool** (to communicate the reality of residual risk and that it is good practice for humanitarian organizations to rigorously assess and consciously accept it).

When communicating on issues of risk management and explaining the concept of residual risk, many NGOs internally have used simple visual models and graphics, as in the samples below. Many of these have been created by the organizations in-house, while others are borrowed from published guidance and training materials. Visuals can be helpful in advocacy efforts for elucidating the key idea and for all parties laying the foundation of the discussion.

Examples of visual models

Balancing risk with criticality

1. ASSESS RISK

Identify different types of risk associated with the specific action or intervention. These can be grouped by categories: security (organisational), security (affected people), fiduciary, reputational, information technology, health and safety, legal / compliance, etc. Risks can fall within multiple categories. Rate each threat by likelihood and impact based on available information and judgment. More information may be needed.

Likelihood x impact = risk. The scale for likelihood and impact is 1-5 (1 = very low, 5 = very high) and the scale for risk is 1-5 = low / 6-10 = medium / 11-15 = high / 16-26 = very high

#	Threat	Category	Likelihood		Impact		Initial risk rating
1	Armed group attacks us on the road	Security (org)	5	X	5	=	25 (very high)
2	Donor audit finds aid diversion to a designated terrorist group	Fiduciary	2	X	4	=	8 (medium)
3	Food distribution prompts a violent raid, harming beneficiaries	Security (affected people)	3	X	5	=	15 (high)

2. MITIGATE RISK

Identify and take steps to lower the likelihood or the impact of each risk.

#	Mitigating measure(s)	Likelihood		Impact		New risk rating
1	Initiate negotiations with armed group. Improve communications procedures on road.	4	X	5	=	20 (very high)
2	Increase staff compliance with financial procedures.	1	X	4	=	4 (low)
3	Ensure that distribution times and locations are not known in advance.	2	X	5	=	10 (medium)

3. ASSESS PROGRAMME CRITICALITY

Determine the level of criticality of the intervention (low, medium, high, very high), based on the level and urgency of known humanitarian needs, factoring in the ability of other agencies to reach people.

4. BALANCE RISK WITH CRITICALITY

In situations where programme criticality is higher, organisations can accept a higher level of residual risk:
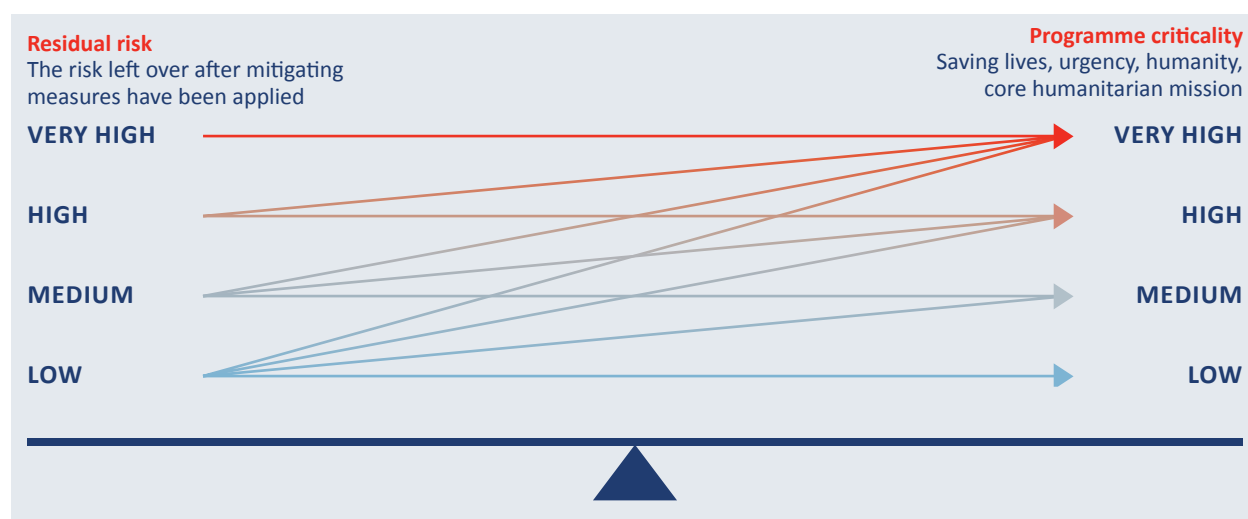
Risk acceptance is the level of residual risk an organisation is generally willing to take on, independent from programme criticality (i.e. setting criticality aside). This can vary by risk type (security, fiduciary etc.) and by scale of programme, but for ethical reasons it shouldn't vary by country programme.

For *fiduciary or reputational risks,* **sharing risk** with donors or international partner organisations can increase one's risk acceptance and allow critical activities to proceed. (Alternatively, it is also possible to see risk sharing as a form of risk mitigation, i.e. by talking to donors / partners and convincing them to share the risk, one lowers the likelihood or impact of possible negative repercussions, such as having to pay back funds or no longer being eligible for funds).

See also: (1) UN programme criticality framework and (2) NGOs and Risk Review, Humanitarian Outcomes, 2016.

Source: "Balancing risk with criticality" (from Haver, forthcoming)

Finally, the growing body of literature on risk management and risk thresholds[4] can be used to strengthen the advocacy case. (The References section of this document contains some useful examples.)

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4   See for example Harmer et. al., 2010; Behn & Kingston, 2010; Jacquand & Ranii, 2014; Davis, 2015; Stoddard, Haver, & Czwarno, 2016; Haver, forthcoming.

7. Opportunities and events

NGOs can take advantage of any relevant ongoing political processes, joint initiatives, conferences, and other events that can be used to promote the risk sharing cause. Included among these could be:

- Follow-up processes to the May 2016 World Humanitarian Summit, in particular the NGO Commitments
    - www.icvanetwork.org/key-ngo-whs-commitments-and-calls
    - www.interaction.org/document/us-ngo-commitments-world-humanitarian-summit)

- The ACF-led movement for a special procedure / mandated representative to ensure the protection of aid workers (www.protectaidworkers.org)

- Donor strategy development processes, e.g. white papers

- IASC Reference Group on Principled Humanitarian Action

- Security Council action on the protection of aid workers

- World Humanitarian Day events

8. Monitoring and Evaluation

In recent years, many NGOs have paid more attention to setting concrete and specific objectives for their advocacy and identifying empirical measures with which to gauge success or failure. If objectives are designed to be measurable, evaluation is simple and straightforward. Apart from the obvious end-point objectives (such as an MOU with a donor acknowledging a shared residual risk or a resolution calling for an expanded humanitarian exemption to counter-terrorism regulation), it is important to remember that progress in advocacy tends to be dynamic and iterative, rather than linear. In other words, in the monitoring process, it may not be possible to list all indicators in advance, and evaluation and learning will need to take place continuously throughout to inform next steps.

References and additional resources

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