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## **Solutions to Roadblocks to Peacebuilding – Fact Sheet**

Efforts related to prevent outbreaks of violence, transform armed conflicts, find peaceful ways to manage conflict, and create the socioeconomic and political conditions for sustainable development and peace continue to be stymied by overbroad U.S. counterterrorism laws and policies. But in 2015 and 2016 there are opportunities for positive change as the Obama administration seeks more creative ways to address the problem of violent extremism.

### **Peacebuilding by Civil Society**

Peacebuilding organizations include non-governmental organizations (NGOs) directly involved in supporting a peace process or capacity building; human rights organizations working on social justice issues; women's and faith-based organizations; and international and educational groups, such as academic and media related institutions.

By developing strong local and international networks, identifying best practices and improving organizational capacities and skills, civil society is uniquely positioned to engage in initiatives that official diplomatic and economic programs cannot achieve independently. The U.S. government relies on peacebuilding groups to work in hostile zones, implement peacebuilding programs and often, to confidently engage with parties whom the government has chosen not to publicly acknowledge.

### **The Roadblocks**

Current law criminalizes the provision of material support to groups listed as designated Foreign Terrorist Organizations by the U.S. State Department, with a limited exception for medicine and religious materials. The penalty for violating this "material support" prohibition is up to 15 years in prison, or life, if death results. In addition, under the Treasury Department's sanctions programs, a peacebuilding organization's assets can be frozen if it provides advice or assistance to armed groups on Treasury's terrorist list. The U.S. Supreme Court's 2010 decision in *Holder v. Humanitarian Law Project* upheld the application of the "material support" prohibition to include conflict prevention and resolution activities aimed at getting terrorist groups to lay down their arms, making it clear that good faith is no defense.

### **The Solution**

Congress has the power to change this situation with a simple legislative fix, to allow:

any speech or communication with a foreign person that is subject to sanctions under this Act to prevent or alleviate the suffering of a civilian population, including speech or communication to reduce or eliminate the frequency and severity of violent conflict and reducing its impact on the civilian populations.

A bill introduced in the last Congress, the Humanitarian Assistance Facilitation Act (HAFA) of 2013 (HR 3526) would have removed barriers to providing aid and promoting peace created by U.S. counterterrorism policy. Like most bills, it did not pass, but an updated version is being prepared for the 114<sup>th</sup> Congress.

Until it does so, the **Secretary of State can ensure that no stone is left unturned in the effort to resolve conflicts peacefully.** Current law gives him the power to approve exceptions to the material support prohibition for non-tangible expert advice and assistance. The Secretary of State can exercise this power to allow activities designed to reduce and eliminate the frequency and severity of violent conflict and/or its impact on noncombatants.

### **Looking Ahead**

Protecting human security is a common goal of both governments and civil society. **Civil society organizations need to work collectively to pressure policymakers to use a risk-based approach in counterterrorism laws and policies and to carve out legal space for peacebuilding activities.**

The Charity & Security Network (CSN) works to protect civil society's ability to carry out peacebuilding, humanitarian aid, human rights and development work without being unduly constrained by counterterrorism laws and policies. Launched in late 2008, CSN is made up of a broad cross-section of nonprofits, including charities working on humanitarian aid, development, peacebuilding, human rights and civil liberties, along with grantmakers, donors and faith-based groups.

CSN convenes a Peacebuilding Working Group that advocates for changes in law and policy for legitimate conflict resolution activities carried out by civil society organizations. The Working Group is currently focused on drafting new proposed federal legislation and urging the Obama administration to remove the restrictions that hamper peacebuilding work by peacebuilders during his final 18 months in office.

**To become a member of the Charity & Security Network**, email Andrea Hall, Communications/Outreach Associate, at [ahall@charityandsecurity.org](mailto:ahall@charityandsecurity.org).

To learn more, go to [www.charityandsecurity.org](http://www.charityandsecurity.org).