

Reclaiming the Protection of Civilians

Enhancing respect for International Humanitarian Law by non-State armed groups

Mr. Chairman, Distinguished Delegates, dear friends,

First of all, I wish to say that it is a privilege for me to participate in this important conference. I would like to thank the Government of Norway for giving me this opportunity. I hope my contribution will add points and ideas to the discussion.

During its early years, Geneva Call was referred to as the UFO of the humanitarian world. Everybody thought we were dreaming in thinking that armed non-State actors would make commitments and respect them. Thirteen years later, I have been invited here certainly not because I am a UFO, but to share the experience and knowledge Geneva Call has gained in engaging armed non-State actors worldwide.

Geneva Call's work is based on a key principle: ownership of norms or self-appropriation of norms by armed non-State actors. The only way for armed groups to respect their commitments is if they make them their *own*. As long as we try to put pressure on such groups; threaten them; or impose on them the norms of international conventions that they cannot sign, armed non-State actors will at the least show great reluctance, and most often, consider these norms as purely Western norms and totally reject them.

There is another way to bring them to adhere to norms. If they can take their own decision to make their own commitment, and to consider the obligations they undertake as *their* choice, the leaders of the groups will keep their word, and the rank and file will respect their decision.

Armed non-State actors are part of the problem, but they can also be part of the solution. However, when the international community decides to ignore them, to fight them or to list them as terrorists, this approach may meet with some success, but not really change the behaviour of these groups in the field vis-à-vis the civilian population.

So how does Geneva Call implement this approach in practice ?

Geneva Call is a Swiss-based neutral and impartial humanitarian organization dedicated to engaging armed non-State actors towards better compliance with humanitarian norms. Geneva Call's ultimate objective is to improve the protection of civilians from the effects of armed conflict through such compliance. Geneva Call's specific approach is a long-term one, based on international humanitarian norms.

Geneva Call focused initially on the anti-personnel mine ban. More recently it has expanded its activities to the prohibition of sexual violence and of the use of children in armed conflict and more broadly for their protection. It has also increasingly responded to requests by armed groups for help to develop their knowledge and enforcement capacity in International Humanitarian Law through customized training courses.

Geneva Call's work can be characterized by four main processes:

1) Establishing a sustained and constructive dialogue aimed at sensitizing armed groups on international standards and compliance with them. This is a long process requiring much patience.

2) Signing Geneva Call's *Deed of Commitment*, an innovative mechanism whereby armed groups have the opportunity – as they cannot sign international treaties – to make the formal documented commitment to respect various humanitarian norms. To date, Geneva Call has developed three such instruments: the *Deed of Commitment* banning AP mines, the *Deed of Commitment* protecting children from the effects of armed conflict and the *Deed of Commitment* prohibiting sexual violence in armed conflict and gender discrimination.

These *Deeds of Commitment* mirror international standards, and are signed by the armed groups. The *Deed* is counter-signed by Geneva Call and the Government of the Republic and Canton of Geneva, which serves as custodian of the *Deeds*. The signing ceremony usually takes place in the Alabama Room in Geneva, an historic room where the first Geneva Convention was signed.

3) Providing support to signatory armed non-State actors in implementing their obligations under the *Deeds of Commitment*, and in-depth monitoring of their compliance with their commitments. This includes carrying out field verification missions.

However, we also have to recognize that this is not always easy. Some groups are reluctant, not ready to make a concrete commitment. In such situations we work on what we call a step-by-step approach. Even a first step towards more respect for international norms can already produce a positive impact in regards to the protection of civilians.

4) Taking a specific approach with women combatants. In many situations one can work with women on humanitarian norms and encourage them to advocate in favour of compliance within their own groups. Training women combatants in negotiation skills is also very important, for example giving them the opportunity to play an active role in peace processes, as recommended by the Resolution 1325.

What has Geneva Call achieved so far ?

Geneva Call has engaged with more than 70 armed groups to date.

As of today, 42 armed non-State actors - from Africa, Asia, the Middle East and Europe - have signed the *Deed of Commitment* banning anti-personnel mines. These groups have complied with their pledge and most of them have destroyed their stockpiles (tens of thousands) and cooperated in mine action. Other groups have taken concrete steps to reduce the impact of anti-personnel mines on civilian populations.

Seven groups have signed the *Deed of Commitment* protecting children from the effects of armed conflict and six groups have signed the *Deed of Commitment* prohibiting sexual violence in armed conflict and gender discrimination. These two *Deeds of Commitment* have been launched quite recently (end 2010 and mid-2012 respectively).

This demonstrates that a pragmatic approach, based on dialogue and persuasion, can be effective in increasing compliance by armed non-State actors with at least some humanitarian norms.

In the same vein I would like to emphasize the importance of avoiding the '*don't*' but also the '*do*'. This is a key aspect for armed non-State actors to understand. We are not only on the prohibition

page. We are also looking for constructive measures from the groups themselves. They have to understand they have responsibilities. In all three of Geneva Call's *Deeds of Commitment*, there is a mix of prohibition as well as positive and constructive obligations.

It is also very interesting and important to note that although Geneva Call's mission is exclusively humanitarian, Geneva Call's engagement with armed groups has contributed in some cases to confidence- and peace-building.

Over time, armed non-State actors have also increasingly requested Geneva Call to work with them on their own Codes of Conduct. Do their own internal regulations comply with IHL ? Geneva Call has been requested more and more to train commanders on IHL. We have adapted our approach and replied positively to such requests. We have trained different armed non-State actors in the world. To achieve this we have selected 15 basic rules of IHL, primarily on the respect of civilians and "personnes hors de combat".

We have developed training modules specific to armed groups, so far in 7 different languages including local ones. The modules also analyse concrete examples and scenarios that fighters may face in their operations, and provide opportunities to discuss what the right response should be.

We deliver capacity and material to commanders to disseminate the 15 rules among their own fighters. Or sometimes we do it ourselves in the field, in different military camps.

All such work is done in complementarity or collaboration with the ICRC, the International Institute of Humanitarian Law of San Remo and other partners.

However the internal conflicts of today are changing, as we have seen in Libya, Mali and now in Syria. The chain of command leading the rebellion doesn't really exist. You have many different groups, led by different commanders, and who move very often from one group to another, and so on.

Considering this kind of situation, Geneva Call has needed to develop new ideas. Mainly because of the lack of chain of command, but also for reasons of security as organizing IHL training in the field is dangerous (for both trainers and combatants). Geneva Call has done this, but it has become more and more challenging in regards to security. In the case of Syria we have decided to make use of the media and social networks to disseminate IHL messages as social media are prevalent everywhere in Syria.

Well everything seems so simple. Engage armed non-State actors, propose that they sign the *Deed of Commitment*, which they will implement and respect, train the commanders and fighters on IHL or at least on the most important rules, and help them to adapt their own code of conduct. And civilians will be protected.....

Of course it is not really like that. That would be too simple !

- 1) It is a very long process. You have to build trust, you have to explain and sensitize, you have to underline why it is so important to protect civilians, you have to speak about the norms and about the importance of respecting basic rules, showing them that such respect will in the future facilitate reconstruction, peace and democracy. You have to make them understand that democracy will never be built on atrocities. So as this is a long process, situations can change ... sometimes donors get tired of funding a slow process which may take years before producing concrete impact.

- 2) External contexts can also affect the work, putting civilians even more at risk, and consequently making the work more difficult.
 - a. As said before, the conflicts of today are no more inter-state, but intra-state, and armed violence can occur everywhere in the country. Very often there is no clear front-line and civilians are particularly at risk, caught in the middle of the armed struggle.
 - b. Sometimes armed non-State actors are not aware that there are regulations in war or international rules. Others know of them, but don't feel bound by rules and treaties which can only be signed by States. Such ignorance or rejection of norms has an impact on civilians, since they are not protected by the combatants and can even be targeted or used by them.
 - c. In some cases, counter-terrorism measures have initiated a process of criminalization of humanitarian workers (for example the US Supreme Court decision known as the *Holder Case*). The consequence is that civilians are left behind without any support, as humanitarian actors are afraid of being sanctioned.

So what response to these situations ? How can we “reclaim” the protection of civilians ?

Two important points can be stressed:

1. In the case of internal violence, it is important to recognize – when the conditions are reached – the status of non-international conflict. This status gives rights and obligations to both sides, and allows a better engagement, with clear rules.
2. Governments and the international community have to accept that the engagement of armed non-State actors will not reinforce them, but is a pre-condition to the protection of civilians. In this sense, concerned States have to recognize that obstruction of access for humanitarian NGOs is the wrong approach and that the criminalization of humanitarian actors will affect civilians far more than it will armed groups. States should stop preventing or obstructing access towards armed non-State actors for humanitarian purposes and for humanitarian engagement.

I will conclude with 3 recommendations to the international community and Governments

1. It is imperative to understand that ownership of norms or self-appropriation of norms by armed non-State actors is a key for them to respect their commitments.
2. It is essential to take into consideration the field realities faced by armed non-State actors and to accompany them in their *own* efforts. It is important to be pragmatic as the answers are not always contained in international treaties.
3. Criminalization of humanitarian workers is a real threat for humanitarian assistance and humanitarian advocacy. The war on terror should not affect humanitarian space.

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