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On July 20, 2010, Geneva Call, the UN Office for the Coordination of Humanitarian Affairs (OCHA), and the International Peace Institute (IPI) co-hosted a panel discussion entitled “Humanitarian Engagement with Nonstate Armed Groups: Enhancing the Protection of Civilians in Armed Conflict,” with the support of the Swiss Federal Department of Foreign Affairs. The event took place at IPI in the aftermath of the UN Security Council’s July 7, 2010, open debate on the protection of civilians. It brought together more than ninety representatives of member states, the UN Secretariat, and nongovernmental organizations to discuss the value of and best practices for engaging with nonstate armed groups to move them toward compliance with international humanitarian law.

The discussions were conducted under the Chatham House Rule of nonattribution, but some panelists consented to having their statements made public. The meeting note was drafted by Reno Meyer of Geneva Call. It reflects the *rappporteur’s* interpretation of the discussions and does not necessarily represent the views of all other participants.

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# Humanitarian Engagement with Nonstate Armed Groups: Enhancing the Protection of Civilians in Armed Conflict

MARCH 2011

## Executive Summary

In today’s armed conflicts, humanitarian actors are increasingly challenged by the presence and proliferation of nonstate armed groups (NSAGs). In many cases, NSAGs exert control over territories and populations. However, their knowledge of and respect for international humanitarian law (IHL) and human rights standards are often limited. Under these circumstances, direct engagement with NSAGs is crucial for the protection of civilians in armed conflict. The panelists, all experienced field practitioners, presented concrete examples where engagement with NSAGs resulted in increased protection of civilians, such as the ban on anti-personnel mines, immunization of children, and release of hostages.

The diversity and fragmentation of NSAGs, shifting control over territory, and lack of cooperation by affected states pose serious challenges for humanitarian actors and demand a certain degree of pragmatism and flexibility. In order to improve the response to these challenges, increased understanding of the motivations and capacities of NSAGs for complying with IHL is required.

A neutral and purely humanitarian agenda is also key to building successful relationships with all parties. The panelists further emphasized the importance of involving local civil-society actors in the engagement process and making strategic use of the comparative advantages of UN agencies and NGOs.

Panelists urged member states to support, or at least not to obstruct, efforts by humanitarian actors to engage NSAGs, in order to seek improved protection for civilians, and they stressed that such efforts do not affect the legal or political status of NSAGs.

## The Changing Nature of Armed Conflict

Traditional wars with the regular armies of two or more states confronting each other have become rare. Nearly all contemporary armed conflicts occur within the territory of a single state and involve one or more NSAGs fighting government forces or each other. These internal conflicts are often characterized by serious violations of IHL and human rights standards, such as the deliberate targeting of civilians, indiscriminate attacks, forced displacement of populations, the use of civilians as human shields, the recruitment and use of children in hostilities, rape, torture, hostage-taking, destruction of civilian property and looting. These abuses, whose main victims are civilians, are perpetrated by all parties, state and nonstate actors alike. In some countries, NSAGs have gained control over part of the territory and the population living therein. Therefore, efforts to assist and protect victims of armed conflict, in

particular civilian populations, must address not only the conduct of states, but also that of NSAGs.

Substantive normative advances toward the protection of civilians have been made in recent years. Yet, while NSAGs play an increased role in contemporary warfare and have responsibilities under IHL, the state-centric nature of the international legal system poses challenges for regulating their behavior. First, existing treaties and their implementation mechanisms remain predominantly focused on states. Second, even though they are bound by IHL, NSAGs cannot negotiate or become parties to international treaties. Therefore, there is little opportunity for NSAGs to express their willingness to abide by humanitarian norms, which may indeed limit the incentive to respect them in practice.

In his May 2009 report on the protection of civilians,<sup>1</sup> the Secretary-General identifies the need to enhance compliance with IHL and human rights standards by NSAGs as one of five core challenges for more effective protection of civilians in armed conflict. According to the Secretary-General, there is an urgent need to develop a comprehensive approach to increasing NSAGs' compliance and to engage in a sustained dialogue with all parties to a conflict. While engagement with NSAGs will not always result in improved protection, the absence of systematic engagement will almost certainly mean more, not fewer, civilian casualties in current conflicts.

## The Value of Engaging Nonstate Armed Groups

IHL does not address the political implications of conflict. It seeks to abate the worst consequences of hostilities, while taking into account military necessity. When humanitarian operations must take place in the presence of nonstate parties to conflict, only regular liaison with these NSAGs can secure better compliance with IHL and human rights norms, ensure access to vulnerable populations, and ensure the safety of international and

local staff.

The panelists strongly supported the Secretary-General's call for consistent and increased humanitarian dialogue with NSAGs. Being more and more exposed to situations in which NSAGs are present and have a direct bearing on victims of conflict, humanitarian actors have no choice but to engage with these groups in order to fulfill their mandates. This is particularly true for humanitarian access. Humanitarian actors cannot work in areas where NSAGs operate without first establishing contact and obtaining guarantees for the safety of their staff.

The experience of UNICEF in Afghanistan exemplified the risk associated with not doing so. In the post-September 11th context, after many years of engagement in which critical programs could be maintained, UNICEF was gradually obliged to suspend dialogue with the Taliban. At that time, the Taliban controlled large parts of the national territory. The suspension of dialogue resulted in a loss of access to certain areas, the cessation of vaccination campaigns, and a subsequent rise in child polio cases.

Experience also shows that NSAGs are willing to commit to not only respect specific humanitarian norms, but also to cooperate in the monitoring of their compliance. Geneva Call, for instance, has successfully engaged with more than forty NSAGs on the ban of anti-personnel mines to date, which have by and large complied with their commitments. A key factor for this achievement was Geneva Call's inclusive approach providing an accountability mechanism, the *Deed of Commitment*,<sup>2</sup> by which NSAGs can adhere to humanitarian norms and participate in the implementation and verification process. The most recent verification mission in the Philippines in 2009 demonstrates the usefulness of this approach.<sup>3</sup> Investigating allegations of the anti-personnel mine use by a local NSAG, the verification team was able to collaborate directly with the NSAG and government forces and involved populations to carry out the mission with the agreement and cooperation of

1 United Nations, *Report of the Secretary-General on the Protection of Civilians in Armed Conflict*, UN Doc. S/2009/277, May 27, 2009.

2 Geneva Call, *Deed of Commitment for Adherence to a Total Ban on Anti-Personnel Mines and for Cooperation in Mine Action*, available at [www.genevacall.org/resources/deed-of-commitment/deed-of-commitment.htm](http://www.genevacall.org/resources/deed-of-commitment/deed-of-commitment.htm).

3 See Geneva Call, *Fact-Finding during Armed Conflict--Report of the 2009 Verification Mission to the Philippines to Investigate Allegations of Anti-Personnel Landmines Use by the Moro Islamic Liberation Front*, 2010, available at [www.genevacall.org/resources/other-documents-studies/f-other-documents-studies/2001-2010/2010-GC-Report-Philippines-Web.pdf](http://www.genevacall.org/resources/other-documents-studies/f-other-documents-studies/2001-2010/2010-GC-Report-Philippines-Web.pdf).

both the NSAG and the government. Besides increasing accountability and incentives to comply with commitments, monitoring and verification are also an integral part of the credibility of all engagement.

Other concrete examples were given by the panelists where engagement resulted in increased protection of civilians. The engagement process of humanitarian organizations comprises a variety of approaches, ranging from dialogue, negotiation, and advocacy, to dissemination, humanitarian training, and capacity building. These approaches are not mutually exclusive and vary according to the mandate of the organization concerned, its working methods and the normative framework within which it operates.

## Challenges and Lessons Learned

### IMPLICATIONS FOR HUMANITARIAN ACTORS

Humanitarian actors often face a complex mix of NSAGs with diverse backgrounds, motivations, and levels of understanding of international standards. In order to enhance ownership of and compliance with IHL and human rights standards, it was recommended that these norms be explained in terms that resonate locally. This requires a high degree of cultural sensitivity and the ability to adapt to different frames of reference.

The fragmentation of NSAGs is another challenge. It may affect the continuity of set agreements and entails renegotiation with new factions or splinter groups. Moreover, unclear or decentralized command structures and shifting control over territory may also complicate dialogue with NSAGs. Pragmatic and flexible approaches are needed in such circumstances and humanitarian actors should be prepared to invest in a long-term effort. Humanitarian engagement with NSAGs is a process; it must be conducted in a consistent and sustained manner in order to nurture a culture of compliance.

In certain cases, the interest of NSAGs to enter into humanitarian dialogue and comply with IHL is limited. The UN experience in Somalia demonstrates that compliance may depend on the group's buy-in to the political process. NSAGs

whose longer-term strategy is to be part of government are generally more susceptible to accept IHL and to respond to appeals for humanitarian assistance. The panelists repeatedly underscored the importance of better understanding the incentives, motivations, and capacities of NSAGs for complying with IHL and called for increased research into this.

Mistrust between warring parties, and also of humanitarian organizations, is common in armed conflict. Humanitarian actors need to demonstrate their neutral, impartial, independent, and purely humanitarian agenda through their actions. Working in a politically charged and sensitive environment, and building trust with all parties may include taking calculated risks.

Local actors with sound knowledge of the social, cultural, and historical context are often indispensable for building successful relations with NSAGs. Understanding the dynamics of the conflict is essential for engagement. In certain specific situations, however, it is advisable not to appoint local staff due to safety and neutrality considerations.

Furthermore, mobilizing local constituencies has also proved to have a persuasive effect on NSAGs. When addressing the humanitarian crisis in Colombia, the positive changes came foremost through the involvement and pressure of local communities on the parties.

The panelists also stressed the fact that international, intergovernmental, and nongovernmental organizations all have their comparative advantages. They encompass a variety of approaches and mandates and their relations should therefore be based on the principle of complementarity, and as much as possible, well-coordinated.

In order to achieve concrete humanitarian outcomes through engagement with NSAGs the panelists recommended having clear and focused objectives. Approaching NSAGs with multiple objectives is far less likely to yield positive results.

### ROLE OF MEMBER STATES

In his opening remarks, UN Under-Secretary-General John Holmes noted that during the past few years, the normative advances toward protection of civilians have been encouraging but have

not yet been matched by substantial progress on the ground. In many places, the ability of humanitarian actors to access people in need of assistance has eroded, while the impact of conflict on civilian populations has grown.

Of equal concern is the increasing trend toward violence against humanitarian personnel working to assist or protect victims of conflict. In this context, states party to the Geneva Conventions are obliged to not only respect IHL, but also to ensure respect by others. It is a general obligation of all member states, including those affected by or involved in armed conflict, to better protect civilian populations. This includes ensuring that humanitarian actors are supported, or at least not obstructed, in their efforts to engage with NSAGs.

In some cases, states have impeded the intervention of humanitarian actors on their territory, fearing that this intervention would confer legitimacy on or some form of recognition to NSAGs. The panelists stressed the point that humanitarian engagement is neutral and impartial in character and does not affect the legal status of NSAGs. This is clearly stated in Common Article 3 of the Geneva Conventions.

In addition, terrorist listing and proscription

regimes may have unintended negative consequences. They may constrain the space of humanitarian actors by criminalizing contacts with designated or proscribed groups and fuelling radical behavior instead of encouraging moderation within NSAGs.

## Conclusion

The panel discussion made clear that humanitarian engagement with NSAGs is an effective approach to ensure better protection of civilians. Such an approach contributes to increased general compliance with IHL, access to vulnerable populations, and the safety of humanitarian workers.

Yet, considerable challenges remain. Humanitarian actors are facing complex settings and working environments that demand a high degree of flexibility, sensitivity, and cooperation. At the same time, some member states still have reservations or concerns about this work.

It is hoped that this event contributed to a better understanding of the benefits of humanitarian engagement with NSAGs and will help foster more support for such efforts, thereby improving the protection of civilians in armed conflict.

## Agenda

- 08:30 – 09:00      **Breakfast**
- 09:00 - 09:10      **Welcome**
- Dr. Edward C. Luck, *Senior Vice President for Research and Programs, IPI*
- 09:10 – 09:30      **Introductory Remarks**
- Ms. Heidi Grau, *Deputy Permanent Representative, Mission of Switzerland to the UN*
- Sir John Holmes, *Under-Secretary-General for Humanitarian Affairs and Emergency Relief Coordinator*
- 09:30 – 11:00      **Panel I: Rationale and Strategies for Engaging Nonstate Armed Groups**
- Why is engagement with nonstate armed groups important and how can it best be effected? When and how should such groups be engaged? What are the incentives for nonstate armed groups to comply with international humanitarian and human rights law? How can external actors better coordinate their efforts in the field and share best practices in engaging with such groups in order to better protect civilians in armed conflict? How can member states encourage the adoption of strategies to support nonstate-actor compliance with norms affecting the protection of civilians?*
- Chair  
Dr. Edward C. Luck
- Speakers  
Ms. Elisabeth Decrey Warner, *President and Co-founder, Geneva Call*  
Mr. Louis-Georges Arsenault, *Director of Emergency Programmes, UNICEF*  
Mr. Mark Bowden, *United Nations Humanitarian Coordinator, Somalia*
- 11:00 – 11:15      **Coffee Break**
- 11:15 – 12:45      **Panel II: Case Studies, Lessons Learned, and Best Practices**
- What lessons can be learned from previous experience in engaging nonstate armed groups? What were the major issues involved in each case? What strategies for addressing these issues were most effective and why? What are the main challenges associated with humanitarian engagement with nonstate armed groups and how have these been managed? What specific lessons and best practices can be learned from each case? How can they be applied in future situations?*
- Chair  
Mr. Hansjoerg Strohmeyer, *Chief of Policy, Development & Studies Branch, UN Office for the Coordination of Humanitarian Affairs (OCHA)*

Speakers

Mr. Sayed Aqa, *UN Resident Coordinator and UNDP Resident Representative in Bahrain (formerly Coordinator of the Afghan Campaign to Ban Landmines)*

Reverend Francisco de Roux, *Director of the Programme for Development and Peace in Magdalena Medio, Colombia*

Mr. Jonathan Somer, *Legal Adviser and Programme Coordinator on Children and Non-State Actors, Geneva Call*

12:45 – 13:00

**Closing Remarks**

Mr. Hansjoerg Strohmeyer

Dr. Edward C. Luck

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## Participants

**H.E. Mr. Gyan Chandra Acharya**

Permanent Mission of the Federal Democratic Republic of Nepal to the United Nations

**H.E. Mr. Thomas Adoumasse**

Permanent Mission of the Republic of Benin to the United Nations

**Ms. Christina Alfirev****Mr. Sayed Aqa**

United Nations Development Program

**Mr. Marion Arnaud**

International Coalition for the Responsibility to Protect

**Mr. Louis-Georges Arsenault**

United Nations Children's Fund

**Ms. Ylva Blondel**

Freelance Researcher

**Mr. Tito Bonde**

United Nations Department of Peacekeeping Operations

**H.E. Ms. Sofia Borges**

Permanent Mission of the Democratic Republic of Timor-Leste to the United Nations

**Ms. Genevieve Boutin**

United Nations Children's Fund

**Mr. Mark Bowden**

United Nations Office for the Coordination of Humanitarian Affairs

**Ms. Meiko Boynton**

International Peace Institute

**Ms. Michelle Brown**

Refugees International

**Ms. Kate Burns**

United Nations Office for the Coordination of Humanitarian Affairs

**Ms. Dominique Bush**

United Nations Office of the High Commissioner for Human Rights

**Mr. Evan Cinq-Mars**

International Coalition for the Responsibility to Protect

**Mr. Ian Costello**

United Nations High Commissioner for Refugees

**Mr. Nick Crawford**

United Nations World Food Programme

**Mr. Vance Culbert**

Norwegian Refugee Council

**Ms. Gabriele De Gaudenzi**

United Nations Department of Peacekeeping Operations

**Reverend Francisco de Roux**

Programme for Development and Peace in Magdalena Medio, Colombia

**Ms. Carla De Ycaza**

International Peace Institute

**Ms. Elisabeth Decrey Warner**

Geneva Call

**Professor Ahmed Dhakkar**

Permanent Mission of the Somali Republic to the United Nations

**Ms. Sivanka Dhanapala**

Office of the United Nations High Commissioner for Refugees

**Mr. Joseph Cornelius Donnelly**

CARITAS Internationalis

**Mr. Swen Dornig**

Permanent Mission of the Principality of Liechtenstein to the United Nations

**Mr. Fabien Dubuet**

Médecins Sans Frontières (MSF)

**Mr. Elmar Eich**

Permanent Mission of Germany to the  
United Nations

**Mr. Walter A. Füllemann**

Delegation of the International Committee of the  
Red Cross to the United Nations

**Ms. Maria Vittoria Gagliardi**

United Nations Department of Peacekeeping  
Operations

**H.E. Mr. Ufuk Gokcen**

Office of the Permanent Observer for the  
Organization of the Islamic Conference to the  
United Nations

**Mr. Max-Olivier Gonnet**

Permanent Mission of France to the  
United Nations

**Ms. Heidi Grau**

Permanent Mission of Switzerland to the  
United Nations

**Mr. Sune Hjelmervik Gudnitz**

United Nations Office for the Coordination of  
Humanitarian Affairs

**Mr. Patrick Hayford**

Office of the Special Adviser on Africa

**Mr. Tomas Henning**

United Nations Department of Peacekeeping  
Operations

**Ms. Warda Henning**

United Nations Office of Legal Affairs

**Mr. Julian Hernandez**

United Nations

**Mr. Warren Hoge**

International Peace Institute

**Sir John Holmes**

United Nations Office for the Coordination of  
Humanitarian Affairs

**Ms. Ikram Hussein**

Security Council Report

**Ms. Pernille Ironside**

United Nations Children's Fund

**Mr. Udo Janz**

United Nations High Commissioner for Refugees

**Ms. Sunni J. Kim**

United Nations Office for the Coordination of  
Humanitarian Affairs

**Mr. Fred Kirungi**

United Nations Office of the High Commissioner  
for Human Rights

**H.E. Mr. Palitha T. B. Kohona**

Permanent Mission of the Democratic Socialist  
Republic of Sri Lanka to the United Nations

**Ms. Jeanne Kwak**

World Vision

**Ms. Maxime Larive**

Delegation of the European Union to the  
United Nations

**Mr. Emmanuel Lebrun-Damiens**

Permanent Mission of France to the  
United Nations

**Ms. Natasha Lewis**

Permanent Mission of New Zealand to the  
United Nations

**Ms. Nicola Lichtenberg****Mr. Damian Lilly**

United Nations Office for the Coordination of  
Humanitarian Affairs

**Dr. Edward C. Luck**

International Peace Institute

**Dr. Adam Lupel**

International Peace Institute

**Ms. Sandra Macharia**

United Nations Development Programme

**Ms. Rosa Malango**

United Nations Office for the Coordination of  
Humanitarian Affairs

**Mr. Francesco Mancini**  
International Peace Institute

**Ms. Fofana Mariame**  
Permanent Mission of Burkina Faso to the  
United Nations

**Ms. Jennifer McAvoy**  
United Nations Office for the Coordination of  
Humanitarian Affairs

**Ms. Arline Diaz Mendoza**  
Permanent Mission of Venezuela to the  
United Nations

**Mr. Reno Meyer**  
Geneva Call

**Mr. Christoph Mikulaschek**  
International Peace Institute

**Ms. Ulrike Moschtaghi**  
Permanent Mission of Germany to the  
United Nations

**Ms. Feda Abdelhady Nasser**  
Permanent Observer Mission of Palestine to the  
United Nations

**Mrs. Ulrike Nguyen**  
Permanent Mission of Austria to the  
United Nations

**Lt. Col. Vincent Nyakarundi**  
Permanent Mission of the Republic of Rwanda  
to the United Nations

**Ms. Karin Oliver**  
United Nations Department of Political Affairs

**Ms. Kyoko Ono**  
United Nations Department of Peacekeeping  
Operations

**Ms. Carolina Owens**  
Office of the Special Representative of the  
Secretary-General for Children and Armed  
Conflict

**H.E. Mr. Martin Palous**  
Permanent Mission of the Czech Republic to the  
United Nations

**Ms. Rona Peligal**  
Human Rights Watch

**Ms. Cristina Pellandini**  
Delegation of the International Committee of the  
Red Cross to the United Nations

**Mr. Daniel Pfister**  
United Nations Office for the Coordination of  
Humanitarian Affairs

**H.E. Ms. Isabelle F. Picco**  
Permanent Mission of the Principality of Monaco  
to the United Nations

**Mr. Marc Porret**  
United Nations Counter-Terrorism Executive  
Directorate

**Ms. Anne-Marie Ragin**  
Permanent Mission of Belgium to the  
United Nations

**Mr. Pirmin Real**  
United Nations Department of Peacekeeping  
Operations

**Ms. Solene Ripert**  
Delegation of the European Union to the  
United Nations

**Mr. Nikoloi Rogosaroff**  
United Nations Department of Peacekeeping  
Operations

**Mr. Paul Romita**  
International Peace Institute

**Mr. Gabor Rona**  
United Nations Office for the Coordination of  
Humanitarian Affairs

**Ms. Sue Rooks**  
Save the Children

**Mr. James Ross**  
Human Rights Watch

**Mr. Marco Rossi**  
Permanent Mission of Switzerland to the  
United Nations

**Ms. Mervat Shelbaya**  
United Nations Office for the Coordination of  
Humanitarian Affairs

**Ms. Eva Smets**  
Watchlist on Children and Armed Conflict

**Mr. Jonathan Somer**  
Geneva Call

**Ms. Hanne Stevens**  
Permanent Mission of the United Kingdom  
to the United Nations

**Mr. Hansjoerg Strohmeyer**  
United Nations Office for the Coordination  
of Humanitarian Affairs

**Mr. Joe Thwaites**  
Quaker United Nations Office

**Ms. Friederike Tschampa**  
Delegation of the European Union to the  
United Nations

**Mr. Joseph Waldstein-Wartenberg**  
Permanent Mission of Austria to the  
United Nations

**Ms. Chantale Walker**  
Permanent Mission of Canada to the  
United Nations

**Ms. Kayon Watson**  
UN Liaison Office of the Mennonite Central  
Committee

**Ms. Vanessa Wyeth**  
International Peace Institute

**Ms. Natasha Yacoub**  
Office of the United Nations High Commissioner  
for Refugees

**Mr. Loic Lallemand Zeller**  
Delegation of the European Union to the  
United Nations



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**777 United Nations Plaza New York, NY 10017-3521 USA**

TEL +1-212 687-4300 FAX +1-212 983-8246

**Freyung 3, 1010 Vienna, Austria**

TEL +43-1-533-8881 FAX +43-1-533-8881-11

[www.ipinst.org](http://www.ipinst.org)