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VOICES AND PERSPECTIVES

Fragmentation of armed non-State actors in protracted armed conflicts: Some practical experiences on how to ensure compliance with humanitarian norms

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Abstract

For almost two decades now, Geneva Call has been engaged in developing humanitarian dialogue with some 150 armed non-State actors (ANSAs), with the aim of increasing their knowledge and respect of humanitarian norms. Developing a protection dialogue with ANSAs is not an easy task, and it becomes more complex when groups split, mutate or join larger movements. Humanitarian organizations need to adapt their analysis to a more frequent timescale, keeping in touch constantly with a wide range of key stakeholders in order not to lose track of the current groups' status and structure. In this note, Geneva Call's Director of Operations discusses some of the organization's experiences and lessons learned.

Keywords: armed non-State actors, humanitarian norms, engagement, compliance, armed conflict, Geneva Call.

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Introduction

For almost two decades now, Geneva Call has been engaged in developing humanitarian dialogue with armed non-State actors (ANSAs) around the globe, with the aim of increasing their knowledge of and respect for international humanitarian law (IHL). As of 2019, around 150 ANSAs[1] have been engaged on themes such as the protection of children, the prohibition of sexual violence and gender discrimination, the prohibition of landmines, and the norms governing the conduct of hostilities.[2] In recent years, an increasingly present phenomenon can be seen in the fragmentation of organized ANSAs.[3] Based on the experience gathered by Geneva Call, this can be linked to different causal explanations, such as the existence of conflictive goals or strategies inside a group, or the lack of a sense of unity within its members. While this phenomenon is not new, recent conflicts such as those in Syria and Yemen have confirmed some trends, including the inability of ANSAs to remain united during armed conflict.[4]

Fragmentation of organized ANSAs, coupled with increasingly protracted conflicts, brings a series of challenges to humanitarian actors.[5] Developing a sustainable protection dialogue becomes a struggle in this type of conflict, as humanitarians tend to rely on engaging with structured and stable armed actors – who aim at systemic change – starting from the leadership level. Access to fragmented groups for delivery of humanitarian aid is more difficult, as many stakeholders need to be engaged to obtain the required security guarantees.

As the International Committee of the Red Cross (ICRC) mentioned in its 2016 report *Protracted Conflict and Humanitarian Action*, lack of respect for IHL is a major source of human suffering in protracted conflicts, and ANSAs are the main actors of today's conflicts.[6] Apart from the increasing participation of these non-State entities, other elements have been used to describe current violent scenarios.

1   Geneva Call has been engaging with over 150 ANSAs since its creation. For more information, see: www. genevacall.org (all internet references were accessed in December 2019).
2   For different explanations on how Geneva Call works, see Ezequiel Heffes, "Non-State Actors Engaging Non-State Actors: The Experience of Geneva Call in NIACs", in Ezequiel Heffes, Marcos D. Kotlik and Manuel J. Ventura (eds), *International Humanitarian Law and Non-State Actors: Debates, Law and Practice*, T. M. C. Asser Press and Springer, The Hague, forthcoming 2020; Pascal Bongard and Jonathan Somer, "Monitoring Armed Non-State Actor Compliance with Humanitarian Norms: A Look at International Mechanisms and the Geneva Call Deed of Commitment", *International Review of the Red Cross*, Vol. 93, No. 883, 2011.
3   Fragmented ANSAs have been defined as those that "have weak coercive capacity for enforcing organizational decisions and little unity of purpose among leaders. They exist as loose collections of small factions and individuals but are unlikely to summon unity and institutionalized discipline for any substantial period of time." Paul Staniland, *Networks of Rebellion: Explaining Insurgent Cohesion and Collapse*, Cornell University Press, Ithaca, NY, 2014, p. 8.
4   Kristin M. Bakke, Kathleen Gallagher Cunningham and Lee J. M. Seymour, "The Problem with Fragmented Insurgencies", *Washington Post*, 13 May 2015, available at: https://tinyurl.com/yx42svc8.
5   When referring to "humanitarian actors", this piece includes all those civilian organizations, whether national or international, which have a commitment to humanitarian principles (neutrality, impartiality and independence) and are engaged in humanitarian action, defined here as encompassing humanitarian assistance and protection.
6   ICRC, *Protracted Conflict and Humanitarian Action: Some Recent ICRC Experiences*, Geneva, August 2016, p. 5.

Fragmentation of armed non-State actors in protracted armed conflicts: Some practical experiences on how to ensure compliance with humanitarian norms

INTERNATIONAL REVIEW of the Red Cross

These include the parties' goals and identities, as numerous armed conflicts are fought in the name of identity – ethnic, religious or tribal – rather than for political ideas or geopolitical goals. Moreover, the participants of these "new wars", as defined by Chinkin and Kaldor, are often loose and fluid networks of State and non-State actors that cross borders, in contrast to the "old wars" that were fought by regular armed forces wearing uniforms. Also, Chinkin and Kaldor explain that in these conflicts, the main violence is directed towards civilians, and battles between parties are actually rare. Armed groups, in this sense, "take over areas where the state presence is weak and then use further violence as a form of intimidation". The forms of finance involved – as new wars' economies are decentralized and open to the global economy – and the logic of persistence and spread, in which hostilities are difficult to end, are also features of current conflicts.[7]

Considering these factors, one needs to know how to influence these ANSAs in order to improve their respect for IHL, while taking into account the challenges inherent to protracted conflicts, including the lack of a deterrent effect of sanctions when violations of humanitarian norms are committed[8] and the degradation of basic infrastructure and service provision related to education and health care.[9] Based on Geneva Call's experience, armed groups have a short lifespan and it is rare to witness them remaining with the same structure and leadership over the years.[10]

This article will share some decontextualized examples that Geneva Call has faced in the field when dealing with fragmented groups. Two situations of particular importance today will be presented: one in which the ANSAs split into two distinct factions, and another in which groups join an "umbrella group" formed by various armed groups. Via these scenarios, the article will attempt to draw some conclusions on how to overcome the humanitarian challenges presented by the fragmentation of ANSAs. As the following pages will show, change does not come overnight – especially change in the behaviour of armed actors that are often uneducated and untrained, and that follow different sets of rules (e.g., religious, cultural). From Geneva Call's experience, it has become clear that imposing norms on this type of actor is not effective. However, efforts to ensure that these groups develop a sense of ownership of humanitarian norms has reinforced their understanding of those norms, and consequently acceptance of and respect for IHL.

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7   Christine Chinkin and Mary Kaldor, *International Law and New Wars*, Cambridge University Press, Cambridge and New York, 2017, pp. 5–19.
8   Weinstein has affirmed that "[m]echanisms of deterrence depend on the fact that individuals care about the future". Jeremy Weinstein, *Inside Rebellion: The Politics of Insurgent Violence*, Cambridge University Press, Cambridge, 2006, p. 350. In protracted conflicts with fragmented ANSAs, in which attribution for violations of basic norms is extremely difficult, Geneva Call's experience has shown that an approach based on punishment and sanctions is not always conducive, and direct engagement with leadership is preferred.
9   As the ICRC has explained, protracted conflicts demand that humanitarian organizations engage "more deeply with the social and economic needs of communities enduring the entrenched impoverishment and deprivation brought about by long conflict". ICRC, above note 6, p. 12. The existence of these demands can be quite challenging when engaging ANSAs, as they will prefer to receive assistance for their members rather than talking about humanitarian norms.
10 See also P. Staniland, above note 3, p. 8.

Example 1: Split of armed groups

Sitting under the shade of a rustic shelter, tired from walking long hours before reaching the camp of the armed group, a representative of Geneva Call dialogued with the leadership of a faction that had signed the Deed of Commitment on the prohibition of the use of anti-personnel landmines[11] on how to implement the public commitment he had made on behalf of his movement. As part of its assessment, Geneva Call was convinced that the ANSA's organizational capacity was sufficient to enforce the Deed amongst its ranks. A few years later, a split occurred and another rival faction emerged, with the chief of staff challenging the authority of the original movement's chairman. Understandably, the question that arose within Geneva Call was how to make sure that the general commitment which the group had undertaken to respect international norms and the Deed of Commitment, as well as IHL trainings and monitoring processes carried out by Geneva Call, were not lost.

In such situations, engaging one faction alone is not sufficient, as any commitment made would not necessarily bind all the movement's fragmented factions. If these various factions considered the leaders of the former ANSA to be their enemies, to what extent would it be possible to attain their compliance with rules imposed by those they were now fighting against? It therefore is crucial to engage all the splinter factions separately. What is interesting in this particular example is that both leaders expressed that they *felt* committed to the engagement which the original group had undertaken with Geneva Call. They both wanted to show their "legitimacy" as being the official armed group.[12]

Different challenges can be identified when ANSAs split. First, the question of how to deal with ANSAs that have strong internal divisions or fragmented command structures remains a difficult one to address. Armed groups' collapsing structures make any internalization, enforcement and dissemination of humanitarian norms highly challenging. Some movements have split into multiple factions – between their political and military wings as well as within these wings – which routinely fight each other. In these situations, it becomes very difficult to maintain a structured humanitarian dialogue and monitor respect for the group's engagement in the Deed of Commitment. Second, in the context of armed groups' fragmentation, obtaining access and security can be extremely difficult for humanitarian workers. As there is no consistency in the command structure, while a commander can give security guarantees one day, a few months later new security guarantees would have to be granted by the new person in

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11   The Deed of Commitment is an innovative tool developed by Geneva Call. It is a humanitarian agreement signed by the ANSA leadership that includes international humanitarian provisions to be respected by armed actors during armed conflict. As of today, four thematic Deeds exist covering themes of prohibition of anti-personnel mines, protection of children, prohibition of sexual violence and gender discrimination, and protection of health care.

12   Some studies indicate that "legitimacy-seeking" ANSAs tend to be more respectful than those that are "legitimacy-indifferent". In this sense, see Hyeran Jo, *Compliant Rebels: Rebel Groups and International Law in World Politics*, Cambridge University Press, Cambridge, 2015.

Fragmentation of armed non-State actors in protracted armed conflicts: Some practical experiences on how to ensure compliance with humanitarian norms

INTERNATIONAL
REVIEW
of the Red Cross

charge. This happened recently when Geneva Call had to renegotiate access to an area that was easily accessible only a month before. A newly created splinter group was controlling a portion of the area at the entrance of the zone, and an individual who was previously known as only a mid-level officer suddenly presented himself as the new leader.

As can be seen, engaging with splitting ANSAs is extremely challenging. The above account is based on Geneva Call's experiences, but most humanitarian organizations trying to access people living in territories controlled by armed groups face similar difficulties. There are at least two conclusions that can be drawn when dealing with these cases: (i) humanitarians should not be afraid that engaging the splinter group could put their relationship with the commanders of the original ANSA at risk, and clear messages on the pragmatic reasons for doing so should be delivered to the latter; and (ii) the existence of fragmented ANSAs shows the importance of engaging in a humanitarian dialogue not only with the highest ranks but also with other members of the group, as they could potentially be leading other ANSAs in the near future.

Example 2: Umbrella groups

Another phenomenon that Geneva Call has witnessed is the situation where in the course of the conflict, ANSAs that were initially independent joined other groups without sharing the same ideology, methods of warfare or level of knowledge of IHL. These coalitions are usually opportunistic and are at times driven by external factors such as the involvement and support of States, or the coalitions' relationships with local communities. The formation of an umbrella coalition of ANSAs usually results in a fragmented command structure with factions that operate autonomously according to their own interests. Sustained humanitarian dialogue with such groups is likely to be challenging, mainly because the leadership often changes and does not necessarily have the capacity to enforce its decisions on its rank and file.

One of Geneva Call's recent experiences included ANSAs that signed the Deed of Commitment in relation to the protection of children. Geneva Call had negotiated plans of implementation and monitoring with each leader, as established by the Deed. Only a few months later, however, these ANSAs nonetheless decided to join a larger umbrella organization which included groups that were well known for violating children's safeguards, as well as groups with a radical ideology. Consequently, there was a risk that this heteroclite coalition of groups, which did not have many shared values or a shared ideology, could have resulted in a dilution of those commitments taken individually, and this could have severely affected the protection of children.

For this reason, each ANSA's leader was approached individually by Geneva Call with a clear insistence that despite the fact that they had joined this umbrella organization, each group remained individually responsible for its own behaviour due to the commitments undertaken before. After long hours of

negotiations, guarantees were provided that the commanders and their troops would remain loyal to their words, with the leaders insisting that regardless of their decision to join this larger umbrella group for operational and military reasons, they did not automatically share the views of all the group's members.

Interestingly, other groups' members not familiarized with Geneva Call wanted to know more about its work and IHL following their discussions with those groups in the coalition that had initially signed the Deeds. On some occasions, when ANSAs already engaged in a dialogue with Geneva Call joined a coalition of groups, this created opportunities for other groups to get interested in IHL, which opened paths for dialogue with Geneva Call. The way in which commitments by parties to armed conflicts may encourage allies or enemies to also commit to humanitarian norms is an issue that often remains neglected, even when ANSAs' decisions may have an influence on States. For instance, ANSAs' decisions to abstain from using landmines facilitated the accession of States to the 1997 Ottawa Convention, "as social pressure on the State government built up once a local non-State armed actor had signed [Geneva Call's] Deed of Commitment".[13]

Although umbrella organizations are often analyzed in relation to the difficulties they present when attempting to being engaged, they could actually open doors in terms of peer pressure and peer engagement that should be further explored. Certainly, the lack of shared values and common understanding of IHL makes it harder for humanitarian actors to pursue a sustained dialogue, but once this is achieved, other members of the same coalition can be engaged.

Adapting to trends in increasingly protracted conflicts

The experiences above have allowed Geneva Call to draw some lessons in dealing with armed groups, especially when rapid mutations occur during armed conflicts that tend to last longer and longer.

It is important to adopt an inclusive approach when starting a dialogue with armed groups. One should avoid limiting contacts and interaction only to the current leadership, as other fighters may become leaders of new factions later on if the movement splits. During IHL trainings carried out with the groups' leadership, Geneva Call tries to make sure that both the top leadership and middle-rank fighters are present (usually the ones that may head splinter factions in the event that the group splits). In addition, in some groups political leaders have limited authority over military commanders because they are far from the battlefield or are based in exile in foreign countries. It is therefore essential for humanitarian actors to adopt a grass-roots approach, being as close as possible to

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13   Ulrich Schneckener and Claudia Hofmann, "The Power of Persuasion: The Role of International Non-Governmental Organizations in Engaging Armed Groups", in Heike Krieger (ed.), *Inducing Compliance with International Humanitarian Law: Lessons from the African Great Lakes Region*, Cambridge University Press, Cambridge, 2015, p. 102.

Fragmentation of armed non-State actors in protracted armed conflicts: Some practical experiences on how to ensure compliance with humanitarian norms

INTERNATIONAL REVIEW of the Red Cross

local conflict actors and beneficiaries, which also allows them to keep track of potential changes in the group's structure. In addition to armed groups, Geneva Call engages other societal actors such as religious and local leaders and community elders; this serves to overcome the challenge of fragmentation, as they might influence an ANSA's behaviours regardless of its leadership at any given moment.[14]

Further, it is imperative to build trust and dialogue with key community leaders that have an influence on armed groups. Experience shows that such interlocutors interact regularly with armed groups. There is general agreement that armed groups' survival largely depends on maintaining a degree of popular consent.[15] When groups are fragmented and therefore harder to reach or to talk to, sometimes the only channel of communication remains the communities themselves. It is important not to overlook these communities as passive victims of the conflict; rather, they should be seen as actors that have the power to influence fractioned armed groups.

Also, one should adopt a "patient" mid-term approach when aiming at sustainable changes in armed actors' behaviour. Achieving an effective impact on the protection of civilians requires humanitarian actors to work with a long-term perspective rather than looking for "quick fix" actions – a characteristic too often present in emergency humanitarian work.[16] A meaningful protection dialogue and engagement with ANSAs should be sustained, taking the necessary time to develop a sound understanding and analysis of the group's structures and behaviour. Especially in long, drawn-out conflicts, engagement should be done with a mid- to long-term approach, as a minimum of three to five years are usually needed to start seeing changes in behaviour and increased respect for the basic rules of war.[17]

Developing a protection dialogue with ANSAs is not an easy task, and it becomes more complex when groups split, mutate or join larger movements. Humanitarian organizations need to adapt their analysis to a more frequent

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14 On the role of religious leaders in this context, see Ioana Cismas and Ezequiel Heffes, "Can Religious Leaders Play a Role in Enhancing Compliance with IHL?", *ICRC Humanitarian Law and Policy Blog*, 20 December 2017, available at http://blogs.icrc.org/law-and-policy/2017/12/20/can-religious-leaders-play-a-role-in-enhancing-compliance-with-ihl-2/. See also ICRC, *The Roots of Restraint in War*, Geneva, 2018, which acknowledges the role of religious leaders in influencing the behaviour of community-embedded armed groups and those with a decentralized nature.

15 Sophie Haspeslagh and Zahbia Yousuf (eds), *Local Engagement with Armed Groups: In the Midst of Violence*, Accord Insight No. 2, Conciliation Resources, London, May 2015, p. 5.

16 Bangerter has explained in this sense that persuading ANSAs to respect IHL can only take place in the frame of a dialogue, for which time spent is essential: "[P]ersuasion is a lengthy process as well as a labour-intensive one. Sowing doubt first is often a better tactic than aiming for a quick breakthrough. This allows members of the armed group to rethink their position by themselves. Asking questions is a powerful tool to help this process, apart from the fact that it shows genuine interest. And time allows enhancing one's credibility. Persistence and coherence between words and deeds can only be experienced over time, and they are in the eye of the beholder, that is, the armed group." Olivier Bangerter, "Comment: Persuading Armed Groups to Better Respect International Humanitarian Law", in H. Krieger (ed.), above note 13, p. 122.

17 This suggested time span is drawn from Geneva Call's experience dealing with behaviour changes in ANSAs.

timescale, keeping in touch constantly with a wide range of key stakeholders in order not to lose track of the current groups' status and structure. As the world becomes more globalized and fast-paced, so do conflict actors. Fragmented ANSAs create a series of challenges when addressing IHL violations in order to reduce civilian harm. Efforts need to be made to create dynamic mappings of the various armed actors and establish dialogue with key community members, thus helping humanitarian actors to keep up with the pace of fragmentation, splitting and alliances that forms the rhythm of the life of armed actors.