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SPECIAL REPORT

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ABOUT THE REPORT

This research was undertaken as part of a project on nonstate conflict management and the opportunities and limits of NGOs engaging nonstate armed groups, funded by the German Foundation for Peace Research (DSF). The information on the International Committee of the Red Cross (ICRC) and Geneva Call are based on interviews with representatives of the two organizations.

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SPECIAL REPORT 284

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CONTENTS

NGOs' Interactions with Armed Actors	2
Possibilities for and Limits to Changing Armed Actors' Behavior	9
Conclusions and Recommendations	11

Claudia Hofmann and Ulrich Schneckener

NGOs and Nonstate Armed Actors

Improving Compliance with International Norms

Summary

- Transnational nongovernmental organizations (NGOs) have developed strategies to improve the diffusion of and general adherence to international norms among nonstate armed actors, with the goal of persuading armed actors to adapt their behavior accordingly.
- The ICRC offers trainings in international humanitarian law to armed actors that explain their responsibilities for protecting civilians in military operations. Geneva Call provides education on the effects of antipersonnel landmines and supports armed actors in their efforts to clear mined areas, destroy stockpiles, and provide victim assistance.
- The NGOs' efforts in dealing with nonstate armed actors reveal limitations and problems but also offer new avenues for states and international organizations to engage with armed groups. With greater support from the international community, NGOs' contributions could become more substantive and complement other ongoing efforts to change armed actors' behavior.

Armed actors dominate the environment during and after armed conflict in many ways apart from the conflict itself.¹ They are responsible for violence against unarmed civilians in breach of international humanitarian law and can facilitate the establishment of criminal and informal economies typically seen in postwar societies. However, they also may see themselves as representing distinct interests within the populace and may build broad support from them. Nonstate armed actors—such as rebel groups, militias, warlords, clan chiefs, terrorists, criminals, and mercenaries—can disturb, undermine, or completely truncate state- and peacebuilding processes, leading to further violence that affects the efforts of humanitarian aid workers, representatives of governments, and peacekeepers. Nonstate armed actors are defined as actors who are willing and able to use violence to pursue their objectives; are not integrated into formal state institutions, such as regular armies, presidential guards, police, or special forces; possess a certain degree of autonomy with regard

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to politics, military operations, resources, and infrastructure; and have an organizational structure (i.e., unlike spontaneous riots). The definition encompasses politically and ideologically motivated actors as well as profit-oriented actors.

The international community has employed a number of strategies when dealing with nonstate armed actors, ranging from counterinsurgency and containment to negotiation and mediation to integration and co-optation.² However, these approaches reveal that state actors, such as the affected government and third countries involved in the conflict, still have difficulties in dealing with nonstate armed actors.³ These difficulties are often based on states' commitment to international treaties, the decisions of the UN Security Council, diplomatic customs between sovereign states, and other political considerations, such as the fear of legitimizing armed actors. Nongovernmental organizations (NGOs) and private individuals—such as elder statesmen, including influential persons and retired high officials—command more freedom and flexibility to contact armed actors or react to their requests. Accordingly, they are often involved in the facilitation of talks, informal prenegotiations, the preparation of nonpapers, and direct mediation with armed actors on different policy levels during and after conflict.

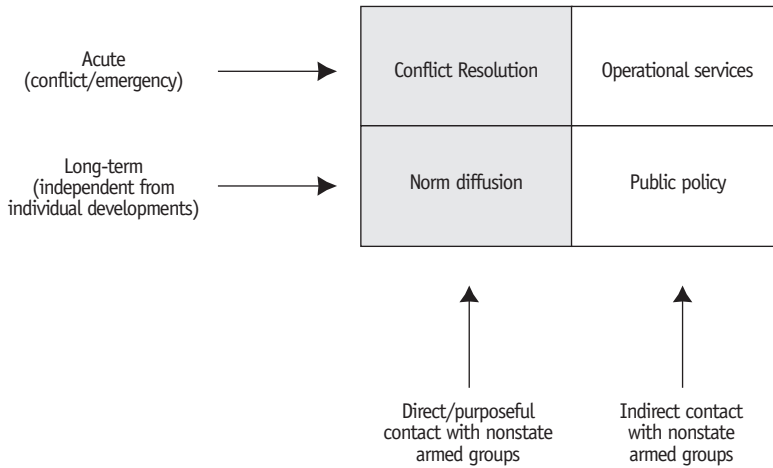
Specialized NGOs engage nonstate armed actors to reduce the violence and instability they cause during and after conflict. Two of the most prominent civil society organizations in the field are the International Committee of the Red Cross (ICRC) and Geneva Call.⁴ They use different approaches in dealing with armed actors, but they have the same goal: to persuade rebel groups, militias, tribal chiefs, and other armed actors to accept international norms and change their behavior as well as their internal rules and doctrines accordingly. The international norms involve, for example, the protection of civilians, the ban of certain means of warfare (such as landmines and child soldiers), and the appropriate treatment of prisoners. The primary intent of such initiatives is not necessarily more peace, but rather less violence, particularly regarding civilians and, more generally, the prevention of an increasing erosion of international humanitarian law during conflicts.⁵ These processes of persuasion and norm diffusion can also be a starting point for further engagement with armed actors that focus on the possibility of changing their self-image or identity—an approach to which actors with postconflict political aspirations may be particularly susceptible. This engagement can, in turn, positively affect a beginning or ongoing peace process and, thus, contribute to constructive conflict management. Criminalizing such NGO efforts, as through the U.S. Patriot Act with its extended definition of terrorism and terrorist organizations, passes up such constructive opportunities to work with nonstate armed groups.

This report analyzes the approaches of civil society organizations such as the ICRC and Geneva Call in communicating international norms to nonstate armed actors. It elaborates on the different methods as well as the basic conditions and factors that affect the success of their approaches in order to evaluate the strengths and limits of NGOs in constructively dealing with nonstate armed actors. Under specific circumstances armed actors can be open-minded regarding international norms, especially if they are striving to become political actors governed by normative behavior and are willing to be judged by this behavior. Such aspirations create new avenues for internal and external actors when interacting with armed actors.

NGOs' Interactions with Armed Actors

NGOs deal with armed actors in several ways as they work in the world's conflict regions.⁶ Both NGOs and aid agencies have become an attractive resource for armed actors and thus continuously run the risk of instrumentalization.⁷ Employees of international and local NGOs are victims of looting, blackmail, intimidation, kidnappings, and targeted attacks.⁸ Often

Figure 1. Modes of NGO Interaction with Nonstate Armed Actors



aid deliveries, vehicles, and technical equipment are stolen or extorted. That said, more constructive forms of interaction exist between NGOs and armed actors as well, ranging from ad hoc contacts and agreements to long-term cooperation that offers NGOs personnel security, access to the local population, and promotion of a peace process. For nonstate armed actors, interaction with NGOs can bring more aid to their local constituency, improving the actors' chances of gaining legitimacy, acknowledgment, and access to other internal and external actors in order to end their political isolation and marginalization.

NGOs' different activities create different reasons for interaction with armed actors (figure 1).⁹ Operational services as conducted by humanitarian and development NGOs, such as Médecins Sans Frontières, CARE, InterAction, and parochial development organizations, primarily consist of tasks that aid a suffering population during and after conflict. While NGOs often work with nonstate armed actors to carry out relief projects in specific regions, contact is selective and only with regard to a dispute or an emergency; the armed actors are means to an end, as the services' main focus is the population. Public policy work concentrates mainly on lobbying, monitoring, awareness raising, and education. Organizations including Human Rights Watch, Transparency International, and the International Crisis Group denounce drawbacks and misconduct (i.e., naming and shaming), sensitize the international public to specific problems, and appeal publicly to the conflict parties to do—or not do—something. As such work focuses mainly on states and international organizations, which are in turn supposed to act against the misconduct of other actors, the engagement of nonstate armed actors is indirect.¹⁰ Conflict resolution, such as that conducted by the Carter Center, International Alert, or the Finnish Crisis Management Initiative (CMI), involves conflict management, the provision of good offices, and facilitation, be it in official or unofficial mission, of negotiations from the local to the international level.¹¹ These activities lead to direct contact with nonstate armed actors to support negotiation processes. The duration of contact depends on a favorable occasion for negotiations and does not last beyond them. Finally, norm diffusion involves persuading nonstate armed actors to adhere to specific international norms. Contact with armed actors is direct and often long-term, for example if concluded agreements regarding international norms require a monitoring process. The two organizations described in this report, the ICRC and Geneva Call, are paradigmatic for this field of action.

The typology in figure 1 only roughly characterizes NGOs themselves, as numerous NGOs engage in multiple activities simultaneously and with different intensities. The Carter Center

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is involved in conflict resolution but also—and more extensively—in operational services, in the fields of health and democracy. It also engages in public policy by reporting on grievances and problems and by attracting the attention of the American public. Similarly, the ICRC and Geneva Call are active in public policy and political lobbying to consolidate international humanitarian law and strengthen the ban on antipersonnel landmines. But distinguishing among categories of activity is instructive: There is a qualitative difference between delivering aid in conflict regions and lobbying political decision makers, on one hand, and supporting mediation between conflicting parties and promoting the adherence of international norms, on the other. The latter two are formative attributes of the ICRC and Geneva Call, regardless of their other activities.

The ICRC

When the ICRC was founded as a civil organization in 1863 by Henry Dunant, its main concern was to bring relief to wounded soldiers on the battlefield and to develop international treaties that would protect the wounded as well as the medical personnel assisting them. These principles still represent the foundation for the ICRC's work, though its scope has expanded considerably. The number of employees indicates the magnitude of the ICRC's efforts: Around 800 staff work at the organization's headquarters in Geneva, around 1,400 are active as specialized staff and delegates, and around 11,000 local employees work for the organization in the field. The ICRC's specific mandate is anchored in the 1949 Geneva Conventions and the 1977 Additional Protocols, in which the organization is given specific rights and tasks during and after armed conflict, such as visiting prisoners of war, supplying food and other necessities for the civil population, reuniting families, and searching for missing persons. Furthermore, according to the Statutes of the International Red Cross and Red Crescent Movement, the ICRC also must "work for the understanding and dissemination of knowledge of international humanitarian law applicable in armed conflicts and to prepare any development thereof."¹² Legally, the ICRC is a private association formed under the Swiss civil code that is made up of fifteen to twenty-five Swiss citizens. Internationally, however, the ICRC enjoys the status of a legal entity under international humanitarian law and is, therefore, different from conventional NGOs. Accordingly, the organization possesses certain privileges—such as exemptions from taxes and customs—similar to those of other international organizations. Most important, however, is immunity regarding courts of law, including international war crimes tribunals and the International Criminal Court.

The ICRC strongly values impartiality, neutrality, and independence, and thus does not distinguish between state and nonstate conflict actors systematically or normatively. In practice, this means that the ICRC seeks out direct contact with state and nonstate armed actors, independent of whether they fight on the side of or against the government, and offers each the same services. At the time of writing, the ICRC is engaging more than one hundred nonstate armed actors in about thirty countries, concentrating particularly on the provisions encoded in Common Article 3 of the Geneva Conventions. This article concerns humane treatment for all persons in enemy hands; the prohibition of murder, mutilation, and torture as well as cruel, humiliating, and degrading treatment; and the taking of hostages and unfair trials.¹³ The ICRC employs two mechanisms to increase respect for international humanitarian law in armed conflicts: formally expressing commitment to humanitarian norms and gradually implementing them. Ideally, these mechanisms are mutually supportive, and practically, they are often pursued in parallel.

First, a range of legal tools give all actors in a conflict an opportunity to make an express commitment to international humanitarian norms. This not only instills the armed-actor leadership with a sense of self-determination and responsibility, but also circumvents their

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feeling not to be bound by international law when they are neither involved in its creation nor allowed to sign the relevant international treaty. An express commitment may contain new legal obligations that go beyond the existing provisions (i.e., a constitutive agreement) or restate law that is already binding in noninternational conflict (i.e., a declaratory agreement). In 1992, the parties to the conflict in Bosnia and Herzegovina concluded a declaratory agreement vowing respect for the provisions of Common Article 3 of the Geneva Conventions and adding provisions regulating the protection of the wounded, sick, and shipwrecked; of hospitals and medical units; and of the civilian population. Similar agreements were made in Yemen in 1962 and Nigeria in 1967. Constitutive agreements were concluded with the government of El Salvador and the Frente Farabundo Martí para la Liberación Nacional (FMLN) in 1990, and between the government of the Philippines and the National Democratic Front of the Philippines (NDFP) in 1998, accepting human rights norms that went beyond the commitments of Common Article 3 and Additional Protocol II.

Unilateral declarations give armed actors another opportunity to express commitment to international humanitarian norms and human rights independent from any other party. In September 1987 the Coordinadora Guerrillera Simón Bolívar (CGSB), a short-lived umbrella organization of rebel groups in Colombia, declared its intention to respect international humanitarian norms. In 1991 and 1996, the ICRC received declarations from the National Democratic Front of the Philippines. Such agreements have also been part of cease-fire or peace agreements. The 2002 cease-fire agreement between the government of Angola and the União Nacional para a Independência Total de Angola (UNITA) contained an additional section that guaranteed the halting of all force movements in the reinforcement or occupation of new military positions. The cease-fire agreement between the government of the Democratic Socialist Republic of Sri Lanka and the Liberation Tigers of Tamil Eelam (LTTE), also in 2002, included an additional article on protecting the population against hostile acts, such as torture, intimidation, abduction, extortion, and harassment.

The second mechanism represents the main part of the ICRC's concept. It follows the premise that, if violations are to be avoided, rules and regulations need to become an integral part of the behavior of armed actors in military operations. Generally, the process begins by disseminating information about existing humanitarian regulations, as it cannot be assumed that armed actors have comprehensive knowledge of international law or its implications for their operations. Subsequent work addresses four dimensions in particular: doctrine, education and training, equipment, and effective sanctions. Ideally, changes in these four dimensions are mutually reinforcing, so that the entire process is a comprehensive approach requiring continual and long-term interaction with an armed actor, accounting for the time the actor needs to execute and implement all necessary organizational changes. To influence behavior, international humanitarian norms have to become a common and integral part of an actor's doctrine. For this to happen, the humanitarian norms have to be incorporated into all directives, procedures, rules of behavior, and handbooks concerning the training, terminology, and decision-making processes of fighters, strategically and tactically. Special handbooks need to be compiled that speak to the relevant levels and specializations of the armed organization, such as different levels of command or fighters in populated areas. Even if no systematic curriculum exists, nonstate armed actors have some form of educational system that at least covers weapons training, which can be used for humanitarian purposes. Additionally, the ICRC offers training courses for teachers, trainers, and legal advisers of nonstate armed actors. The highest level of command must equip fighters to minimize or avoid violations of international humanitarian norms, and the ICRC is authorized to inspect would-be combatants during training to determine whether they are equipped to carry out the provisions of international humanitarian law. During these training situations, the ICRC also aims to demonstrate to fighters the effects their weapons

The ICRC is authorized to inspect would-be combatants during training to determine whether they are equipped to carry out the provisions of international humanitarian law.

have on civilian victims. Finally, the ICRC stresses that sanctions within the group itself must not violate international law and human rights: While commanders must be able to discipline fighters, especially punish violations of rules and regulations, sanctions must be applied consistently and reasonably to demonstrate the earnestness of the leadership and their commitment to international humanitarian norms.

To subject the entire integration process to a continuous evaluation, the ICRC developed a scorecard for state military and police that records the state of an actor's integration—and violations—of international humanitarian law. The first practical applications of the scorecard have met serious challenges, such as the confidentiality of documentation necessary for an evaluation, the organizational complexity of developed military and police forces, and the need to repeat an evaluation periodically. The ICRC has not yet been able to design a corresponding scorecard for nonstate armed actors at all, as the groups in question are too different from one another to summarize according to common criteria.

The ICRC focuses on strategic argumentation adapted to the motivations and interests of the actors.

Independent from which particular engagement strategy is used for a particular armed actor, the ICRC focuses on strategic argumentation.¹⁴ To be effective, discussions and dissemination sessions with armed actors need to be adapted to the motivations and interests of the actors. They need to explain why it is in the actors' best interests to adhere to international humanitarian law. The ICRC has used several arguments in the past. First, adhering to international humanitarian law might improve actors' reputations, on the international and local levels and among their allies and constituency. Additionally, the actor may gain the moral high ground that could lead to political gains. Second, if an actor develops a reputation for treating prisoners of war well, people might surrender to it more easily. Third, while reciprocity is not necessary for international humanitarian law to apply, it is more likely that the other side will treat an actor's members well after taking them prisoner if it sees the actor treat its prisoners in a similar manner. Fourth, violations of international humanitarian law may be disadvantageous in the long run, in damage to an actor's reputation, a loss of support, or ostracism by the population. By the same logic, compliance might benefit the actor. Adherence to international humanitarian norms also may help facilitate postconflict reconciliation. Fifth, international humanitarian norms may preserve military interests; they were originally developed by military commanders, accounting for the balance between military needs and humanity. It is not only more humane, but also in the commander's interest to have well-disciplined troops and a functioning command structure. Sixth, adherence to international humanitarian law may save resources, especially in keeping infrastructure intact. Finally, recent developments in the prosecution of violations of international law during conflict, such as through the International Criminal Tribunal for Yugoslavia (ICTY), the International Criminal Tribunal for Rwanda (ICTR), and the International Criminal Court (ICC), have strengthened the international legal framework, making prosecution of violations more likely.

Whether the above mechanisms and arguments succeed in changing armed actors' behavior depends mostly on whether the ICRC is granted access to actors' leadership, and whether this contact can be maintained over a longer period. The ICRC's approach to armed actors is top down, relying on the cooperation of both political and military leadership. In its efforts, however, the ICRC is supported by its distinct status and reputation as a neutral humanitarian organization that engages nonstate armed actors in the same way it engages state actors regarding their obligations under international humanitarian law. All weapons bearers are subject to the same normative demands. This transparency awards the ICRC an exceptional credibility; at the same time, this credibility has to be reaffirmed in each individual case through the personal interactions of ICRC delegates.

Geneva Call

Geneva Call, founded in 2002, directly engages nonstate armed actors to increase their adherence to international humanitarian norms, particularly international humanitarian law and international human rights law. The NGO currently addresses three issue areas: adherence to the universal antipersonnel mine ban, respect for children in armed conflict, and respect for the rights of women in conflict. The bulk of Geneva Call's work, however, focuses on landmines, specifically in territory that nonstate armed actors control. Many nonstate armed actors maintain antipersonnel landmines as a part of their standard arsenal due to their low cost, availability, uncomplicated production, and simple use. Actors manufacture, trade, sell, and use landmines to advance their goals. Today, more than seventy states are believed to be affected by mines; in the past ten years, landmines, explosive remnants of war (ERW), and victim-activated improvised explosive devices (IED) have caused approximately 74,000 casualties. An inquiry conducted in 2006 found that forty nonstate armed actors in at least seven countries reportedly used landmines between 2003 and 2005.¹⁵ Experts estimate that 10 to 40 percent of landmines fail to explode as intended, then remain active and make access to certain areas highly dangerous. Landmines used by nonstate armed actors in particular tend to be first-generation mines without activity limits, possibly remaining active for decades. Landmines can impede a country's development for multiple generations; simultaneously, they impair the nonstate armed actor by killing and maiming its own fighters, restricting troop movements, and diminishing support that they might otherwise have enjoyed in the affected population.

The 1997 Convention on the Prohibition of the Use, Stockpiling, Production, and Transfer of Anti-Personnel Mines and on their Destruction—otherwise known as the Ottawa Treaty—internationally regulates the use of landmines. Nonstate actors did not participate in the negotiation process and are not eligible to sign the treaty because they lack appropriate status. They are subject to the provisions of the Ottawa Treaty if their home state is a signatory party, but in practice, they often do not know about their responsibilities regarding the landmines ban and do not feel bound by them because they did not expressly agree to the provisions. Without the active inclusion and assistance of nonstate armed actors, however, the landmines problem is not being addressed in its entirety. For this reason, Geneva Call aims to persuade armed actors to change their behavior and respect the international landmines ban. For this purpose, it has designed an innovative mechanism that allows armed actors to commit to the norms of the Ottawa Treaty by signing the Deed of Commitment for Adherence to a Total Ban on Anti-Personnel Mines and for Cooperation in Mine Action between the NGO and the armed actor. The mechanism attempts to balance the shortcomings of international law by offering a parallel process for nonstate armed actors that enables them to actively enter a formal commitment to the ban of antipersonnel landmines. Under the deed, the armed actor agrees to several conditions: first, to acknowledge the norm of a total ban on antipersonnel landmines established by the 1997 Ottawa Treaty; second, to adhere to a total ban of antipersonnel landmines, which includes the complete prohibition on all use, development, production, acquisition, stockpiling, retention, and transfer of mines; third, to cooperate in and undertake stockpile destruction, mine clearance, victim assistance, mine awareness, and various other forms of mine action; fourth, to allow and cooperate in the monitoring and verification of the commitment, which entails visits and inspections by Geneva Call and other independent international and national organizations, as well as the provision of necessary information to those organizations; and fifth, to issue the necessary orders and directives to commanders and fighters, including measures for information dissemination, training, and disciplinary sanctions.

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Additionally, Article 6 of the deed explains that signing the deed does not alter the legal status of the nonstate armed actor, pursuant to Common Article 3 of the Geneva Conventions. The deed itself is most commonly seen as a unilateral declaration by the armed actor, with Geneva Call and the government of the Republic and Canton of Geneva serving as witnesses. It is signed by an individual representing and acting in the name of the armed actor, often in the historic Alabama Room at the Hôtel-de-Ville in Geneva, where the Geneva Convention was signed in 1864.

Geneva Call currently engages approximately sixty armed actors. Forty-one armed actors have signed the deed, seventeen from Somalia alone and six from Myanmar. The others are from Burundi, India, Iran, Iraq, the Philippines, Sudan, Turkey, and Western Sahara.¹⁶ Several other actors have not signed the deed but have pledged to prohibit or limit the use of antipersonnel landmines, either through individual unilateral declarations or as a part of a cease-fire agreement with the government. Still others have undertaken mine clearance and victim assistance in areas under their control. The government of Somaliland refuses to sign the deed because it considers itself to be a state and aspires to sign the Ottawa Treaty instead.

In most cases the armed actors have already begun mine clearings and other action. Geneva Call supports the implementation of the deed and monitors the progress made. In 2008, the NGO facilitated technical assistance through specialized organizations to destroy stockpiles held by two signatory groups in Western Sahara and Somalia. Two other signatories in Burundi and Sudan reported to Geneva Call the complete destruction of their stockpiles after having joined the respective government; a signatory in the Republic of Myanmar/Burma reported clearing all its landmines and mine components; one signatory reported a stockpile located in Northern Iraq as destroyed. In Somalia, Geneva Call arranged for the assistance of a specialized organization to undertake explosive ordnance disposal (EOD) and to provide emergency support to mine victims. Additionally, Geneva Call organized workshops, mine risk education (MRE) seminars, and surveys in areas under signatories' control in cooperation with partner organizations.

Geneva Call establishes contact with nonstate armed actors in three ways. First is directly, for the purpose of a dialogue on landmines, as with the Mouvement des Nigériens pour la Justice (MNJ), the Partiya Karkerên Kurdistan (PKK), the Partiya Demokrata Kurdistan (PDK), the Patriotic Union of Kurdistan (PUK), and Al Houtis in Yemen. Second, contact has been facilitated indirectly through third parties, most commonly through local NGOs or civil society groups, but also through other nonstate armed actors, as occurred with the Mouvement des forces démocratiques de Casamance (MFDC), Palipehutu-FNL in Burundi, the Ejército de Liberación Nacional (ELN) in Colombia, the Liberation Tigers of Tamil Eelam (LTTE) in Sri Lanka, and the Partiya Jiyana Azad a Kurdistanê (PJAK). Third, some actors have contacted Geneva Call directly to begin a dialogue on antipersonnel landmines after having heard of Geneva Call's initiative, as did Chin National Front in Myanmar/Burma. Geneva Call does not begin a dialogue with an armed actor until it has thoroughly analyzed the group's character, aims, leadership, internal structure, past practices, and the like; assessed the dynamics of conflict and other factors, such as the capabilities of armed actors and their assumed commitment, to assure maximum security; considered the probability of success; and developed the right arguments that persuade the particular nonstate armed actor to give up landmines and adhere to a total ban. According to Geneva Call, armed actors are willing to sign and commit to the deed for several reasons. These include improving the quality of life in the territory controlled by them, enabling mine action programs, and protecting their constituency; improving political stability; confirming for itself that it is respected as an organization and taken seriously by an international (non-governmental) actor, coming from an internationally highly respected country (i.e., the Swiss factor); demonstrating the ability to

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uphold the principles of international humanitarian law and, consequently, aspiring to gain international reputation and respect; and accepting the relatively limited military utility of antipersonnel mines, which may indiscriminately wound, maim, and kill enemies, their constituencies, and their own fighters, and harm their military capacity.

To follow up allegations of deed violations, Geneva Call has developed a monitoring mechanism that can, in practice, be difficult to employ, as the parties to the conflict may not actually have an interest in verifying claims. This is true for armed actors as well as governments if allegations are only made to discredit the opposition internationally. Monitoring, therefore, may involve self-reporting and progress reports (e.g., the Polisario Front), evaluation through local NGOs and civil society (e.g., PKK in Turkey), and following up on accusations (e.g., Moro Islamic Liberation Front in the Philippines). In practice, this method may not be entirely satisfying and convincing (see, e.g., Puntland, Somalia, and the Philippines). The NGO maintains, however, that most nonstate armed actors abide by the core of the prohibitions on the use, production, acquisition, and transfer of landmines. Armed actors are also undertaking demining, stockpile destruction, mine risk education, and victim assistance, and often collaborate with specialized humanitarian organizations for this purpose. Moreover, armed actors' decisions to abstain from using landmines have in the past facilitated the ascension of states to the 1997 Ottawa Treaty, as social pressure on the state government built up once a local nonstate armed actor had signed the deed of commitment. This happened in Sudan after the signature of the Sudan People's Liberation Movement/Army (SPLM/A) and in Iraq after the ascension of the Kurdistan Democratic Party (KDP) and regional governments led by the Patriotic Union of Kurdistan (PUK). Although not party to the Ottawa Treaty, Morocco submitted a voluntary report to Geneva Call and invited the organization in 2008 to form recommendations for the government after Geneva Call had engaged the rebel Polisario Front successfully in 2005.¹⁷

Efforts to ban landmines have a strong technical dimension, as armed actors often need more information to avoid mistakes when handling and disposing of these weapons. Unlike the ICRC, Geneva Call does not have special status; it depends on host governments to at least tolerate its activities. But even if governments attempt to obstruct Geneva Call's efforts and refuse to give access to territory controlled by the armed actors, even state actors have an interest in controlling and containing antipersonnel landmines. They are equally affected, and responsible for protecting civilians. Whether Geneva Call's approach can be transferred to other issue areas, such as women and child soldiers, remains to be seen.

Possibilities for and Limits to Changing Armed Actors' Behavior

Despite their different sizes, histories, and goals, the ICRC and Geneva Call employ similar mechanisms regarding norm diffusion. They focus heavily on transmitting information and knowledge, including technical knowledge. They aim to persuade armed actors with arguments that speak to their particular positions in a conflict (i.e., an empathic approach). They are interested in a long-term relationship based on trust and offer targeted measures to build the armed actors' capacities in a particular field. In short, ICRC and Geneva Call explain to armed actors what they are supposed to do and why—and, furthermore, lay out concrete ways for them to implement the norms in question. Using the language developed in the literature on norm diffusion, both organizations practice first and foremost informational diffusion through strategic communication, procedural diffusion through institutionalized forms of cooperation, and transference through aid and support for implementing norms.¹⁸ ICRC and Geneva Call work with different intensities, depending on the consistency, duration, and level of trust in the interaction with nonstate armed actors.

ICRC and Geneva Call explain to armed actors what they are supposed to do and why—and, furthermore, lay out concrete ways for them to implement the norms in question.

Both organizations benefit from their reputations as neutral and independent actors, even if not all share this perception. The ICRC's reputation is supported by the activities of the national Red Cross societies and by their special status in international humanitarian law. For Geneva Call, the Swiss factor is significant, as the organization consciously uses Switzerland's reputation as a neutral country when inviting armed actors to talks and holding conferences with all deed signatories. This alone would not be possible in many other countries, if only for the difficulties of obtaining visas for members of armed actors. Moreover, the success of the ICRC and Geneva Call depends on how the interaction with armed actors has been established. The personal commitment of the NGO representatives, the cautious handling of the interlocutors, a willingness to demonstrate empathy, and the issue of which matters should be discussed first are extremely important. Experience has shown that it is more productive to begin dialogue with more practical matters rather than delving into abstract issues of international norms. This approach gives both sides an opportunity to assess and get to know each other. To start off talks, the ICRC has used inquiries into the condition of prisoners, requesting access to specific areas or a particular checkpoint along with the offer of humanitarian assistance.

The organizations do not offer take-it-or-leave-it programs but gradual processes through which the armed actors become acquainted with international norms step by step.

Besides the organizations' credibility and independence, their flexible but principled approaches are one of their strengths because they can be adjusted to the situation of the individual nonstate armed actor. The organizations do not offer take-it-or-leave-it programs but gradual processes through which the armed actors become acquainted with international norms step by step. Thus, the decision about whether and which norms armed actors incorporate is not a precondition for further dialogue but the result of a long-term effort that begins with awareness training and convincing. After their first steps, the ICRC and Geneva Call have developed more or less formalized forms of cooperation, depending on the actors' willingness to be part of such a process. However, practice has also shown that the degree of formalization does not indicate an actor's degree of norm adherence. A declaratory public acknowledgement of international humanitarian norms and the deed signing remain important signals but do not allow for conclusions regarding how much actors have internalized norms.

The promise of success in an interaction with a nonstate armed actor depends on external factors that may be outside the NGOs' influence. First, the timing of first contact with the phase of the conflict is significant—success is more likely if there is an ongoing peace process with existing regulations that the ICRC and Geneva Call can build on. At the same time, both organizations endeavor to intensify contact with armed actors before violence escalates (again) and before the government restricts or completely prohibits access to the armed actor. ICRC experience, in particular, shows that the earlier a channel of communication can be opened with an armed actor, the sooner a trusted relationship can be established, and the sooner the actor feels that its grievances are being considered—potentially before the lines of conflict become hardened. Such a situation can be exploited to broach the issue of protecting civilians at an early stage, in the hope that such behavior persists even if the conflict intensifies. If a conflict has already escalated and the armed actor is already conducting military operations, a dialogue on humanitarian issues is less of a priority.

Second, much depends on armed actors' abilities to cooperate with organizations such as the ICRC and Geneva Call. Their willingness to do so tends to be greater the more anchored the armed actor is in society and the more support it requires from the population. In these cases, the armed actor probably has an interest in increasing its legitimacy among civilians. This is particularly true for politically and ideologically oriented actors led by politically ambitious individuals. Additionally, a somewhat coherent and hierarchical organizational and command structure is relevant, as well as, in the case of landmines, a somewhat stable control over territory. This structure includes effective leadership as well

as a regulated system for recruitment, education, and training that norm diffusion can build on. The more splintered and fragmented an armed actor, and the less assertive the leadership, the more unlikely it is that international humanitarian norms are understood, accepted, and complied with.

Both aspects touch on the issue of the sustainability of norm-diffusion processes. Although the ICRC—and Geneva Call even more so—aim to establish functioning monitoring mechanisms to supervise compliance with norms, both organizations are reaching their limits. This is due partly to the limited resources at their disposal compared with state actors. Both organizations also lack functioning sanctioning mechanisms because of their very nature. The only sanctions available to the ICRC and Geneva Call are to end any form of cooperation and publicly denounce violations of international norms. Both options have severe consequences as channels of communication are cut, contacts lost—potentially for a long time—and the possibilities diminished to at least partially improve security for the population. Additionally, such measures may negatively affect engagement with other nonstate armed actors. Thus, both the ICRC and Geneva Call sanction actors only in extreme cases.

The discrepancies between the declarations of nonstate armed actors and their actual behaviors spur the accusations—often made by governments—that armed actors are using NGOs solely to gain legitimacy and international recognition. Both the ICRC and Geneva Call know about this danger but have experiences with armed actors that put it in perspective. Often this sweeping argument is made to discredit the work of NGOs in general, mostly when the NGOs' engagement with armed actors is too successful from the government's perspective; it is not made when the engagement has no effect. Also, state actors often use this accusation to distract the international community from their own noncompliance with humanitarian norms. Furthermore, so ICRC and Geneva Call representatives argue, the gain in prestige for armed actors through cooperating with international NGOs is very small compared with the gains when armed actors change their behavior toward other (state) conflict actors, and particularly toward civilians. The problem for many states is not that NGOs fail in diffusing international norms with but that they help armed actors in a battle for the population's favor—and, thus, power in the country.

Conclusions and Recommendations

The ICRC and Geneva Call approaches toward norm diffusion assume that nonstate armed actors are led by norms and values, which the organizations refer to in their statements and declarations. A fundamental reason for this assumption is that a number of nonstate armed actors value their public reputation, moral authority, and source of legitimacy, as well as the expectations that are put on them. For this reason, so the line of thought goes, their normative statements should be taken seriously and their behavior evaluated accordingly. Armed actors' self-awareness can be the start of a debate about norms and regulations, which is part of both the ICRC and Geneva Call approaches. The mechanisms these organizations have developed aim at pressuring armed actors to justify their actions. On an argumentative level, this justification becomes more difficult for the actors the more they have committed to humanitarian norms. For this reason, the declaratory acceptance of norms should be seen as a first step, opening the opportunity to entangle armed actors in an argument about the diffusion and internalization of norms—the same mechanism that is used to diffuse norms, such as human rights, among state actors.

However, the limits of the approach have also become apparent: It is more hazardous to employ the mechanism with regard to nonstate armed actors, who often need to take serious precautions for their security. Additionally, the mechanism appears particularly to

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affect a certain type of nonstate armed actor, namely those actors and leaders that follow a political program, see themselves as representatives of a distinct population, and are interested in providing governance in the territory controlled by them. These actors already anticipate a role in the state, either through revolution and regime change or separation. This profile suggests that NGOs can be far more effective working with classic rebel groups, clan chiefs, and militias than with terrorists, warlords, criminals, or mercenaries, who do not typically have such national-level political ambitions.

External actors dealing with nonstate armed actors need to be aware of the existing range of approaches used by different actors in the field, as well as their possibilities and limits. In any particular case, they need to know about the capabilities of all possible external actors, such as NGOs, to develop a joint effort or at least a complementing approach toward armed groups. The independent activities of NGOs in engaging nonstate armed groups in a humanitarian dialogue may facilitate a change of behavior, make such groups more approachable, and convey norms that other actors can build on, such as in future peace processes. In this respect, NGO activities may well work toward stabilization and peacebuilding even if they remain entirely independent of state efforts. However, the regulations set down in the U.S. Patriot Act specifically make it illegal for any U.S.-based civil society organization to interact with armed groups on the U.S. government's list of foreign terrorist organizations, let alone transfer knowledge to them, even if this knowledge addresses human rights norms and international humanitarian law. The so-called material support law, as part of the Patriot Act, bans any expert advice, defined as "advice or assistance derived from scientific, technical or other specialized knowledge," that would counsel groups to abandon terrorism or to use legal and peaceful means to achieve political change.¹⁹ This argument was upheld in a U.S. Supreme Court ruling on June 21, 2010, which confirmed the ban on training, personnel, service, and expert advice and assistance to any group on the State Department list of terrorist organizations.²⁰ The court ruled that even advice intended to be used for peaceful purposes amounted to material support for terrorism. This expanded definition of terrorism and terrorists actively prevents U.S. NGOs from helping to reduce indiscriminate violence by armed groups. Similar problems may occur regarding the lists of terrorist organizations set up by the United Nations, the European Union, and individual countries, although no other court has issued judgments or rulings on these matters yet.

The successes that organizations such as the ICRC and Geneva Call have achieved through their norm-diffusion approach reveal the deficiencies and shortcomings of the one-dimensional view of nonstate armed actors conveyed in the global war on terror. This view makes little sense conceptually and is shortsighted politically. It is necessary to differentiate among types of armed groups independent of U.S. antiterrorism efforts and to develop more flexible operational procedures that include NGO activities early on. Revising U.S. policy and legislation is advisable to allow, in particular, U.S.-based and international NGOs to use norm diffusion to reduce violence.

Notes

1. A German edition of this paper was published as Claudia Hofmann and Ulrich Schneckener, "Verhaltensänderung durch Normdiffusion? Die Ansätze von IKRK und Geneva Call im Umgang mit bewaffneten Gruppen," *Die Friedens-Warte—Journal of International Peace and Organization* 85, no. 4 (2010), 73–98.
2. Véronique Dudouet, "Mediating Peace with Proscribed Armed Groups," Special Report no. 239, United States Institute of Peace, Washington, DC, 2010; Ulrich Schneckener, "Spoilers or Governance Actors? Engaging Armed Non-State Groups in Areas of Limited Statehood," SFB Working Papers no. 21, Berlin, October 2009.
3. Claudia Hofmann, "Engaging Non-State Armed Groups in Humanitarian Action," *International Peacekeeping* 13, no. 3 (2006), 396–409.
4. Legally, the ICRC is a private association formed under the Swiss civil code. Internationally, however, the ICRC enjoys the status of a legal entity under international humanitarian law and is, therefore, different from conventional NGOs.
5. See Leonard S. Rubenstein and Melanie D. Bittle, "Responsibility for Protection of Medical Workers and Facilities in Armed Conflict," *The Lancet*, no. 375 (January 2010), 329–340; Kathleen Newland, "Refugee Protection and Assistance," in P.J. Simmons and Chantal de Jonge Oudraat, eds., *Managing Global Issues: Lessons Learned* (Washington, DC: Carnegie Endowment for International Peace, 2001), 508–33.
6. See Jörn Grävingholt, Claudia Hofmann, and Stephan Klingebiel, *Development Cooperation and Non-State Armed Groups* (Bonn: Deutsches Institut für Entwicklungspolitik, 2007).
7. Mary Anderson, *Do No Harm: How Aid Can Support Peace—Or War* (Boulder: Lynne Rienner, 1999).
8. Particularly during the height of the war in Afghanistan, NGOs suffered increased attacks by nonstate armed actors. See the Afghanistan NGO Safety Office, ANSO Quarterly Data Reports, http://www.afgnso.org/index_files/Page595.htm. While this trend has often been attributed to a loss of humanitarian space after increased civil-military cooperation on the ground, incidences of looting, blackmail, intimidation, and kidnappings of members of civil society organizations in conflict countries are common.
9. See also Tobias Debiel and Monika Sticht, *Towards a New Profile? Development, Humanitarian and Conflict-Resolution NGOs in the Age of Globalization* (Duisburg: Institut für Entwicklung und Frieden, 2005).
10. Margaret E. Keck and Kathryn Sikkink, *Activists beyond Borders: Advocacy Networks in International Politics* (Ithaca, NY: Cornell University Press, 1998).
11. See Larry A. Dunne and Louis Kriesberg, "Mediating Intermediaries: Expanding Roles of Transnational Organisations," in Jacon Bercovitch, ed., *Studies in International Mediation: Essays in Honor of Jeffrey Z. Rubin* (London: Palgrave, 2002), 194–212.
12. See Article 5.2 (g) of the Statutes of the International Red Cross and Red Crescent Movement, <http://www.icrc.org/eng/resources/documents/misc/icrc-statutes-080503.htm>.
13. ICRC, *Integrating the Law* (Geneva: ICRC, 2007). See also Lisbeth Zegveld, *The Accountability of Armed Opposition Groups in International Law* (Cambridge: Cambridge University Press, 2002).
14. ICRC, *Increasing Respect for International Humanitarian Law in Non-International Armed Conflicts* (Geneva: ICRC, 2008), 30–31.
15. International Campaign to Ban Landmines (ICBL), *Landmine Monitor Report 2009: Toward a Mine-Free World* (Ottawa: Mines Action Canada, 2009), http://www.the-monitor.org/lm/2009/res/Landmines_Report_2009.pdf; Anki Sjöberg, *Armed Non-State Actors and Landmines 1: A Global Report Profiling NSAs and their Use, Acquisition, Production, Transfer, and Stockpiling of Landmines* (Geneva: Geneva Call, 2006).
16. See Geneva Call, "Anti-Personnel Mines and Armed Non-State Actors," <http://www.genevacall.org/Themes/Landmines/landmines.htm>.
17. Geneva Call, Annual Report 2008 (Geneva: Geneva Call, 2008), 17, <http://www.genevacall.org/resources/annual-reports/f-annual-reports/2001-2010/gc-annual-report-2008.pdf>.
18. Ian Manners, "Normative Power Europe: A Contradiction in Terms?" *Journal of Common Market Studies* 40, no. 2 (2002), 235–58.
19. Editorial, "Redefining 'Support' of Terrorism," *Los Angeles Times*, February 20, 2010, <http://articles.latimes.com/2010/feb/20/opinion/la-ed-material20-2010feb20>.
20. Holder, Attorney General, et al. v. Humanitarian Law Project et al., June 21, 2010, <http://www.supremecourt.gov/opinions/09pdf/08-1498.pdf>.

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