



A Global Report on Mine Action by Armed Non-State Actors: Some Preliminary Findings

Presented at the 7th Meeting of States Parties to the Mine Ban Treaty, Geneva
18-22 September 2006

*Anki Sjöberg,
Research Coordinator*

Outline

1. Introduction
2. NSA Involvement in the Mine Action Activities: Preliminary Findings
3. Assessment of NSA Involvement in Mine Action & Its Advantages
4. Challenges, Tentative Solutions & Lessons Learned in NSA Mine Action

1. Introduction

Background

In November 2005, on the occasion of the 6th Meeting of States Parties to the Mine Ban Treaty in Zagreb, Croatia, Geneva Call launched the first of two reports dedicated to investigating armed non-State actor (NSA) involvement in the landmine problem.¹ This report focused on the negative aspects of the involvement of NSAs in this issue, such as their use, acquisition, production, transfer and stockpiling of landmines.² A forthcoming, second report, which builds on and completes the 2005 report, is foreseen to be launched in November 2006 during the Review Conference of the Conference on Certain Conventional Weapons. Together, the two reports will provide a more balanced picture of NSA involvement in the landmine issue, both in its positive and negative respects. This paper presents some of the main preliminary findings of the second report.

¹ The overall project is supported by the Geneva International Academic Network (GIAN/RUIG), the Swedish Ministry of Foreign Affairs, the Italian Ministry of Foreign Affairs and the continued support of the Swiss Ministry of Foreign Affairs. Institutions contributing to the reports are the Program for the Study of International Organization(s), the United Nations Mine Action Service, the Geneva International Centre for Humanitarian Demining, the University of Geneva and the Graduate Institute of International Studies, Geneva.

² “Armed Non-State Actors and Landmines. Volume I: A Global Report Profiling NSAs and their Use, Acquisition, Production, Transfer and Stockpiling of Landmines”. Geneva Call and the Program for the Study of International Organization(s), Geneva, 2005.

Project Rationale and Content

Current and former NSAs are or have been involved in humanitarian mine action - understood as activities which aim to reduce the social, economic and environmental impact of landmines and explosive remnants of war (ERW) - globally. In spite of this, in its work with NSAs and in discussion with other humanitarian actors, Geneva Call found that there was a need to further research mine action by NSAs in conflict and post-conflict situations in order to map the benefits and challenges related to involving these actors in humanitarian mine action. No specific analysis of mine action with NSAs had previously been undertaken. This research, which builds on interviews and correspondence with key informants (principally mine action practitioners), input from NSAs, field research and various written sources, endeavours to fill this gap.

The upcoming report aims to contribute to knowledge of the advantages and challenges of, and lessons learned from, the involvement of NSAs in mine action. One underlying objective of the report is to encourage the international community, in accordance with Action 46 of the *Nairobi Action Plan*,³ to support mine action efforts in all affected territories, even if these are under the control or influence of NSAs. Moreover, it is expected that by acquiring access to information about NSA mine action, NSAs which are not currently involved in mine action can learn and understand what other NSAs have done in this respect and thus become aware of the possibilities and opportunities available to them and the potential positive role that they could play in humanitarian mine action. The report will study the involvement of NSAs in mine action in two ways:

1. analyzing some elements for the assessment of NSA mine action, the advantages, difficulties and lessons learned; and
2. describing the current involvement of NSAs in mine action. The focus here is on what the NSAs have done in the five mine action pillars of mine ban advocacy,⁴ stockpile destruction, mine clearance, mine risk education (MRE), and victim assistance and how they have done it.

2. NSA Involvement in the Mine Action Activities: Preliminary Findings

Global Findings

The research for the report demonstrates that NSAs globally have been active in mine action efforts, both formally (through mine action programmes) and informally (through spontaneous efforts). Mine action may have been conducted by the NSA itself, facilitated by the NSA (but not conducted by it), or performed by a non-governmental organization (NGO) more or less closely linked to the NSA. It is shown that, despite significant challenges posed by and to their involvement, it is necessary to involve armed NSAs in mine action activities in order to ensure

³ According to the Nairobi Action Plan, States Parties in a position to do so will

“[c]ontinue to support, as appropriate, mine action to assist affected populations in areas under the control of armed non-state actors, particularly in areas under the control of actors which have agreed to abide by the Convention’s norms.” *Nairobi Action Plan*, 2004, Available:

http://www.gichd.ch/fileadmin/pdf/mbc/MSP/6MSP/Nairobi_Action_Plan.pdf, Accessed 2 June 2006.

⁴ It should be noted that the report employs an expanded concept of “advocacy”, which includes the commitment to an AP mine ban, or a stated moratorium on, or limitation of, landmine use and production.

that humanitarian mine action reaches those most in need. The research shows that it is possible, although not always easy, to engage in humanitarian mine action with NSAs. However, *the benefits for the population of such engagement are equal to those which arise in other mine action situations, and it is important not to discriminate against populations in areas under the control or influence of NSAs.* Difficulties and challenges can be - and have been - overcome. Hence, it is argued here that NSAs should be considered as potentially positive actors in mine action, though appropriate analysis and evaluation of the particular situations is needed.

NSA Involvement in the Five Mine Action Pillars

Practical examples of NSA mine action were found in the areas of the five mine action pillars. There are quite important differences between the numbers of NSAs involved in the different mine action pillars. Generally, the most complete coverage of the mine action pillars occurs where NSAs collaborate with international agencies and NGOs. However, in some of these cases, surprisingly, the actions concerning the pillar activities of mine ban and stockpile destruction have been absent. NSAs that conduct mine action on an *ad hoc* basis also sometimes manage to cover several of the mine action pillars.

According to our preliminary results, the largest numbers of NSAs are involved in activities related to mine ban policy: 35 NSAs have banned anti-personnel (AP) mines, of which 31 have signed the *Deed of Commitment*,⁵ and at least ten had allegedly introduced some types of limitations (temporarily or in their application) to their mine use. At least five NSAs, all signatories of the Deed of Commitment, have reportedly been involved in promoting the mine ban to other actors.

NSAs are rarely involved in stockpile destruction, although this has happened, at least on an *ad hoc* (incomplete and/or limited) basis in seven cases. Sometimes, the failure to destroy stocks appears to be related to the fact that the NSA has not agreed to a total ban on AP mines. Nevertheless, it should be remembered that in some cases, the failure by NSAs to destroy their stocks has also been due to circumstances beyond their control, for instance, the lack of funds or the non-cooperation of a concerned state.

Some 30 NSAs have participated in mine clearance and related activities, both to a substantial extent: in ten cases these formed part of a mine action programme, while the remainder participated on a spontaneous or *ad hoc* basis. Spontaneous or *ad hoc* action has involved activities such as the clearing of camps when leaving them and the adoption of policies to map the mines employed. More substantial efforts can be performed by the NSAs themselves, by actors organizationally linked to them, or by independent organizations. Sometimes when mine action has been conducted by other actors in areas under NSA control, it is not always clear what exactly NSAs have done to facilitate such efforts.

Few NSAs have been directly involved in large-scale MRE programmes: five groups are conducting MRE programmes themselves, and some twelve are facilitating projects or programmes. More frequently (with 14 cases documented) NSAs engage in *ad hoc* MRE by providing information about mines to civilians.

⁵ The humanitarian NGO Geneva Call proposes a mechanism through which NSAs can abide to a total ban on AP mines by signing a “Deed of Commitment under Geneva Call for Adherence to a Total Ban on Anti-Personnel Mines and Cooperation in Mine Action”.

Victim assistance efforts have reportedly been provided by NSAs to civilians (in 20 cases) and by other actors, allowed for or facilitated by the NSA (15 such cases were documented)⁶. While not always reported, it can be assumed that most NSAs (seven cases documented) generally provide their own combatant victims with victim assistance, to the extent possible.

3. Assessment of NSA Involvement in Mine Action & Its Advantages

Mine action is a logical follow-up of the realization by an NSA of the negative effects of landmines. However, it appears that the relationship between a mine ban and other aspects of mine action is not always clear-cut. Other mine action activities can take place in the absence of a mine ban, although such efforts are considered to be less sustainable. Generally, NSAs that have committed to a mine ban are more likely to be involved in mine action than groups that have not committed. In addition, a mine ban (whether a unilateral statement, internal regulation, a Deed of Commitment signature, or an agreement with the concerned government) could “boost” international and national interest in mine action and create a momentum. Some mine action practitioners (as well as Action 46 of the Nairobi Action Plan) suggest that there should be greater support for mine action activities when the concerned NSAs have committed to a mine ban.

There are different explanations of the reasons why NSAs become involved in mine action. Recurring themes are humanitarian and development concerns and self-interest. Community pressure is sometimes highlighted as a main factor. There are at least four variations on the self-interest argument: military reasons; material gain; and internal and international legitimacy. These themes are not mutually exclusive, and an NSA’s decision to engage in mine action could be motivated by a combination of factors. However, humanitarian engagement with NSAs does not confer any legitimacy to them or affect their legal status.⁷

When considering more closely the characteristics of the NSAs involved in mine action and their particular situations, it appears that the differences between the groups are significant. Some groups are small and actively involved in warfare, while some more closely resemble governments of entities which are not, or not widely, recognized as states. Some are frequent or formerly frequent mine users. Some have never used mines or have made more limited use of them. With reference to involvement in a total ban (rather than a limitation) of AP mines, NSAs generally appear to be more open to a ban during peace processes or cease-fires. However, some groups have committed to a ban or agreed on limitations on the use of mines during ongoing fighting or in situations of frozen conflict. Although the NSAs involved in mine action are not confined to those which control territory, such NSAs may feel under particular pressure to provide different services, including mine action, to their population. Taking part in mine action might represent an opportunity for the NSA to provide some services to the population. In general, the implementation of NSA mine action (with international involvement) appears to be most successful when the NSAs are in control of

⁶ Whereas this pillar covers also activities relevant to socio-economic reintegration of mine victims, NSAs rarely participates in activities other than physical and medical treatment.

⁷ Geneva Call confronts this issue through Article 6 of the Deed of Commitment.

territory and the concerned state(s) have fewer possibilities to influence the activities, or do not create any major obstacles to such activities. Another facilitating factor is the existence of a peace or cease-fire agreement.

The primary benefits of NSA mine action, as seen by mine action practitioners, were found to be the same as for other mine action; i.e. principally humanitarian and developmental. Nevertheless, the complementary effects are different and these are often perceived to be as important as, or even more important than, the primary benefits and advantages of working with NSAs. Complementary effects include: employment and stabilizing effects; peace-building; security and disarmament; and openness to discussing other humanitarian norms. In addition, the primary benefits for the population in an area under the control of or influence by NSAs could make an even bigger difference, given that these areas are more often underdeveloped and greatly lack developmental and humanitarian activities.

The main advantages that would encourage humanitarian mine action organizations to engage with NSAs in mine action (and that make such organizations regard NSA involvement as necessary, rather than merely desirable) are: the NSAs' military training and possession of information about the mines in the area (and possibly maps); the NSAs' links to the territory and the population; and the security and cost-effectiveness of working with these actors. In other cases, it is not only the practical aspects, but also the fact that the NSA may be considered by the local population as the legitimate authority, or enjoys the widespread respect of the constituency, that influences the decision to work with it.

4. Challenges, Tentative Solutions & Lessons Learned in NSA Mine Action

As mentioned, the research for the report has shown that it is possible, but not always easy, to work in humanitarian mine actions with NSAs. However, difficulties and challenges can be, and have been, overcome. Various problems related to NSA mine action have been identified. They relate to the political context (including the role of the concerned state), the NSA, and third-party actors. In addition, some of the specific problems faced by those involved in NSA mine action during an armed conflict were highlighted. The main problems identified in this respect were the uncertain and sensitive political situation, security, and continued mine use and ERW contamination.

The main lessons learned include:

1. the need to understand and adapt to the political and conflict situation;
2. the need for confidence-building, commitment and cooperation;
3. the need for transparency and financial control;
4. some issues in relation to the role of local communities; and
5. the organizational aspects of mine action and peace-building.

The challenges and lessons learned relating to them are presented below under the following headings: (i) the political context; (ii) the NSAs; (iii) third parties; and (iv) others.

The Political Context

Need to Understand and Adapt to the Political and Conflict Situation

The need for flexibility and understanding of the circumstances in which NSA mine action takes place has been particularly striking during the research for the report. This requires that the situation be carefully analyzed in all its specificities, taking into account local knowledge.

There is hence a need for realism and flexibility, not only in terms of the methodology, but also in terms of the outcomes.

Although it has sometimes been argued that a cease-fire, or even a peace agreement, is a necessary condition for comprehensive mine action operations, it is generally agreed that the possibilities for action are very context-specific and that different opportunities may present themselves within different regions in a conflict setting. During a conflict situation, it has been suggested that a step-by-step approach, where the minimum actions possible are performed, may not only save lives in the meantime, but facilitate larger-scale mine action activities once the situation permits. Mine action may hence need to begin in an *ad hoc* or limited manner. If a situation allows for some action, this window of opportunity could be seized and actors could do what is possible at a given moment. For example, if demining operations are not feasible, it may be possible to start with some survey and mapping, then subsequently some MRE, and finally commence demining when it is possible politically and for security reasons. Mine action with NSAs should hence not only be a remedial, but also a preventive action, which facilitates and prepares for repatriation of internally displaced persons and refugees.

Flexibility and adaptation are also crucial features for security-related problems, a major concern for NSA mine action. Mine action organizations have seen the need to introduce new security procedures and use local guards in order to overcome important security problems. Another possible solution to the security problem, at least on a temporary basis, has been to work at a distance (training of staff in a safer environment, other aspects of mine action can also be performed at a distance, e.g. certain parts of survey).

Need for Cooperation by the Concerned State

One feature that has been recurrent during the work for the report was the crucial role of the concerned state(s). Concerned states have played very different roles in NSA mine action, ranging from posing an outright security threat to mine action operators, to actively facilitating mine action. Lack of cooperation by the concerned government is an often-cited difficulty faced in NSA mine action. Equipment and staff have frequently been hindered from entering into a country. In some cases, the government has completely halted mine action activities, but more commonly, the concerned state interferes in the practical aspects of the work, by obstructing just as much as it can, stopping short of total no-cooperation. It should be noted, however, that in some cases, the concerned states were very supportive of mine action activities in spite of complex situations and successful actions were undertaken without difficulties.

One of the main conclusions of a 2005 workshop in Zagreb on mine action in the midst of conflict co-organized by Geneva Call and the NSA Working Group of the International Campaign to Ban Landmines was related to the legal aspects of the allocation of responsibility for mine action in areas controlled by NSAs. It was found that States Parties to the Mine Ban Treaty are responsible for mine action efforts undertaken in parts of their territory which, while not under their control, are under their jurisdiction. While a State Party can justify its failure to fulfil its mine action obligations in areas of its territory that it does not control, it is still bound to make “good faith” efforts to perform its treaty obligations⁸. Legal research has further argued that the idea that NSAs may be engaged, and may engage, in a ban on AP mines only if the concerned states agree, is not in accordance with the current development of

⁸ “Legal Aspects”, Kathleen Lawand in Mine Action in the Midst of Internal Conflict, Proceedings from the Conference “Mine Action in the Midst of Internal Conflict”, co-organized by Geneva Call and the ICBL-NSA Working Group, Zagreb, 27 November 2005, (forthcoming 2006).

international law. According to this research, governments have a responsibility to protect their own citizens and, when they are unable to do so (due to an ongoing non-international armed conflict), that responsibility should be allowed to be taken up by the wider international community⁹.

Related to the problems with the concerned state is the problem of an operator working with an NSA potentially being accused of increasing the war-making capacities of the latter. Some organizations have solved this dilemma of lack of trust on behalf of the government by working on both sides of the conflict. Sometimes governments have been compensated materially (equivalent support for mine activities in spite of less urgent needs) for support given to the NSA. It has been suggested that a way to overcome this problem is for the humanitarian actors to work in full transparency with the concerned state. In addition, humanitarian actors should convince the government (through direct lobbying and public advocacy campaigns towards the concerned state and other states) that mine action principally has humanitarian benefits. Alternatively, NSA facilitation with logistics can also help overcome the problems triggered by a non-cooperating state.

The importance of the concerned state is also linked to the importance of not allowing international humanitarian law to become rhetoric. In order to avoid this, concerned governments need to allow for mine action activities to take place. In addition, the international community should assist in these activities and NSAs should facilitate this and demonstrate goodwill in this regard.

The NSAs

Need for Capacity-Building and Training

One major challenge to NSA mine action, highlighted both by humanitarian actors and NSAs, is the lack of capacity and equipment of NSAs. In many cases there is a clear need for training and capacity-building (e.g. technical and operational capacity and management skills). Donor governments are often willing to contribute to reinforcing the capacity of other governments in mine action. Although a careful analysis of the situation and the implications would be necessary, if the relevant conditions are met, donor governments should be more open to supporting training relevant to humanitarian mine action activities, mine action institutions and mine action logistics of, or related to, NSAs. Capacity-building in general has been suggested as a way of confronting the problems of NSA involvement in mine action, which allegedly stem from the NSAs themselves: namely, lack of organization, lack of transparency and a predisposition to set biased priorities. A note of caution should be expressed in this regard; it may be difficult to arrive at a balance between supporting the NSAs on these issues without supporting them politically or financially. Hence, this work could be implemented with the help of independent humanitarian organizations, such as agencies of the United Nations and international NGOs.

It has been suggested that NSAs should assume greater responsibility for facilitating and coordinating the operations. This could be encouraged through awareness-raising activities

⁹ Marco Sassoli, research for [Armed Non-State Actors and Landmines. Volume II: A Global Report of NSA Mine Action](#) (Geneva: Geneva Call and the Program for the Studies of International Organization(s), forthcoming 2006).

with NSAs about AP mines and humanitarian demining. Nevertheless, in work with NSAs, it is important not only to stigmatize their use of mines and failure to participate in mine action, but to raise awareness and educate them about the need for transparency and action on these issues (e.g. by sharing information on minefields and showing stockpiles). Too great an emphasis on stigmatizing NSAs (so-called “naming and shaming”) could have the counter-productive effect of causing them to withdraw from dialogue about mine action.

Need for Financial and Priority Control

Accusations of corruption arising out of the non-transparency of NSAs (although not numerous) are being taken seriously by international NGOs and agencies. In some cases, the problem has been solved by setting up systems of strict financial control, or even outside, independent financial control. Such measures may also avoid unnecessary tensions between the mine action organizations and the NSAs. Most international organizations choose to maintain some kind of financial and/or priority-setting control, the latter to avoid attempts by NSAs to favour certain communities at the expense of others. Some international mine action operators have chosen to give the last word on prioritization to international staff. This solution has also been adopted for similar problems in state mine action.

Third Party Actors

Need for Increased Support

In general, the contribution of third party states and the international community has been considered by mine action practitioners to have been quite supportive, although not sufficiently so. The difficulty in raising funds and the lack of pressure on non-cooperating states indicate areas where third party actors could improve. Both the political and financial aspects are determined to be crucial. However, despite the problems related to funding for NSA mine action, it has been argued that some governments are interested in supporting mine action work with NSAs because of the expected peace-building gains. It has also been claimed that humanitarian actors themselves ought to make further efforts to establish the need for mine action (and the humanitarian benefits it brings) to the concerned governments.

General

Need for Confidence-building, Commitment and Cooperation

To work in difficult situations, mine action practitioners need to build up relationships of trust, not only with the NSAs, but also with the local communities and authorities. In some cases it was considered that a mine ban on behalf of the NSA (such as the Deed of Commitment) had or would be crucial in order to ensure NSA cooperation with mine action organizations. It was also argued that the fact that NSAs have commenced “spontaneous” mine action before enrolling in international programmes might facilitate the start of such programmes. Further arguments brought forward stress the need to secure a commitment by all parties to the conflict (state and non-state) to the non-use of mines and to cooperate in mine action, unilaterally or by agreements between the parties. Mine action issues should also (but not exclusively) be included in exploratory discussions and peace negotiations between governments and NSAs.

With reference to the implementation of mixed demining teams (made up of NSA and government forces) which aim at confidence and peace-building, communication between all parties and leadership by an independent NGO (providing expertise and supervision) may

facilitate the process. However, caution has been expressed in relation to conditioning mine action advances on advances in a peace process: if confidence-building measures fail, they may undermine confidence rather than build it. Hence, one lesson to be learned is the need to be careful when stating what constitutes “success” so as not to raise expectations excessively when dealing with mine action in a sensitive conflict situation.

Need for Transparency

One key feature to facilitate mine action activities in difficult situations is transparency on behalf of all actors. Humanitarian actors need to be transparent towards both NSAs and the concerned state(s) in order to avoid security risks and accusations of “spying”. By being open and clear about their activities, humanitarian actors can convince the parties of their neutrality. NSAs and the concerned state(s) also need to be transparent towards humanitarian actors in order to maximize the benefits from mine action, since limitations on the sharing of information may cause delays or lead to the cancellation of operations. Humanitarian actors should also be transparent to each other in order to be able to confront common problems with joint solutions. Finally, ideally the directly concerned parties (NSAs and states) should be as transparent as possible to each other in terms of sharing relevant information about mined areas and the progress of mine action activities.

Need for Organization and Coordination

In terms of the organization of NSA mine action, the need to address coordination techniques, information-sharing and understandings between the different actors has been highlighted. For instance, one suggestion was the need for all NGOs to address corruption jointly. In practical terms, it has been argued that implementation works best when there are strong NGOs working as implementing or intermediary agencies. The donors provide the funding to the NGO, which works directly with the NSA.

The Need to Involve the Local Communities

Mine action organizations have generally witnessed a strong need to work more closely with local and national authorities. Mine action practitioners are increasingly working with local communities, notably in so-called community liaison which is meant to create fruitful information exchange between mine clearance organizations and the communities. NSAs sometimes also form part of local communities. On the occasions when NSAs are involved in spontaneous mine action activities it is especially important that mine action practitioners deal with them in order to avoid tensions between international/national and spontaneous local efforts. In addition, involving NSAs in mine action is also an issue of accountability, since the people who demine stay in the area afterwards and could be held responsible.

The link or relationship, if any, between the NSA and the community appears to be especially crucial. It has been seen that the inclusion of affected communities in the processes of dialogue and negotiation with NSAs on the landmine issue can be fruitful since they can put pressure on the armed actors. However, in these cases it is of outmost importance to take measures to protect the communities and to analyze the situation. There are some relevant parallels that could be drawn to the involvement of the regular military in mine action. The political situation and the link to the population determine whether NSAs should be involved in mine action during or after armed conflict; if it is an advantage to work with demobilized NSA soldiers instead of active ones, or if civilian actors are preferred. Sensitive issues that need to be carefully considered in different conflict and post-conflict situations include: whether the population trusts the actor; the nature of the relationships between the actor and other important actors in the area; and the possible outcomes of the actions.

In conclusion, the main preliminary results of this research is that NSAs must be considered (through appropriate analysis and evaluation) as potentially positive actors in mine action, since their involvement supports the implementation of the main objective of the Mine Ban Treaty: to reduce the humanitarian impact of AP mines and ERW on the population.