



# **The role of non-state actors in building human security**

## **The case of armed groups in intra-state wars**

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## **Executive summary**

As part of the project of analysing the role of non-state actors in building human security, this paper reviews the role of armed groups in the protection of civilian populations in internal armed conflicts. It addresses the need to develop effective strategies to enhance the receptivity and compliance of armed groups to international standards. Various factors influencing the receptivity of armed groups are analysed, including military, political, economic and cultural issues. Strategies for building the capacity of armed groups to protect civilians and putting pressure on armed groups are also reviewed.

## Foreword

Human security has recently emerged as an innovative approach to help us address, in a holistic manner, the sources of insecurity affecting people worldwide. The security of the individual is no longer defined exclusively within the realm of states or of state security. The origins of today's insecurities are diverse, relating to social, economic, environmental, health and other factors. These insecurities increasingly transcend state borders and have global consequences.

The term human security may be new, but the ideas that inspired it have developed over the last century and a half, from the founding of the International Committee of the Red Cross (ICRC) in 1864 to the acceptance of the Universal Declaration of Human Rights and the Geneva Conventions of 1949. Human security takes the safety of people as its point of reference. For humans to be secure, their lives must be free from pervasive threats, violent or otherwise, to their rights and safety. The human security approach addresses those non-traditional threats to people's security that are related to economic, food, health and environmental factors as well as issues such as drugs, terrorism, organized crime, landmines and gender-based violence. It does not offer a single definition of human security, but aims to bring a more diversified perspective to security interests. Human security is about recognizing the importance of the security needs of people along-side those of states. It is about minimizing risks, taking preventive measures to reduce human vulnerabilities and carrying out remedial action when preventive measures fail.

Non-state actors, from armed groups to private corporations and non-governmental organisations (NGOs), play a critical role in heightening or lessening human security. The measures required to enhance human security often call for action from numerous non-state actors, particularly NGOs. These include, for example, addressing the needs of displaced populations, advocating stronger control of the arms trade and helping governments preserve and restore fragile environments. Human security can act as a platform to help state and non-state actors alike address the causes of global insecurity.

Non-state actors are particularly well suited to engendering human security in the new world context. Indeed, in failed states, they are the only actors who are present to do so. During internal conflicts, non-state actors benefit from close involvement with local communities and they are better able than traditional actors to build local capacity. Non-state actors can and do play many roles in the protection of human security. For example, organizations such as the ICRC and Oxfam act as relief agencies even when governments are unable to respond to emergency needs; NGOs such as the Community of San Egidio facilitate negotiations between warring parties; efforts such as Radio Ijambo in Rwanda aim to help re-establish peace. The Internet community is an emerging actor engaged, for

example, in the reunification of families.<sup>1</sup> These actors have increased access to areas inaccessible to official actors and function without the narrow foreign policy constraints of state institutions. They can talk to several parties at once without losing credibility. They can deal directly with grassroots populations and operate without political or public scrutiny. In addition, non-state actors can more effectively build networks with civil society representatives to focus on longer-term perspectives. They are also less subject to complaints about outside interference or breaches of sovereignty. In short, they are often more flexible than state actors, especially in internal conflicts.

There are, however, many problems associated with the increased role of non-state actors in the protection of human security in conflict situations. The multiplicity of unofficial actors can mean that efforts are uncoordinated and accountability is unclear. Non-state actors may also have insufficient political influence or resources to bring about their ends. They may lack information or awareness about important issues, which may then lead to their taking sides in conflict. In addition, it can be argued that their focus on civil society rather than on state institutions draws resources away from a struggling state.

Evidently, the term non-state is applicable to a large number of very different actors with distinct roles in societies in conflict. Non-state actors include armed groups, NGOs, corporations, educational institutions, private donors, religious organizations, the scientific community, private individuals, the media and, increasingly, the Internet community. Their few shared characteristics result from their distinctly unofficial nature (compared with state actors), their greater flexibility and, often, their unaccountability under national and international laws. There is an acute need to distinguish the various types of non-state actor better.

We can already observe the critical role played by non-state actors as they address key issues of human security, including the illicit trade in small arms, the recruitment of child soldiers and the use of landmines. The lead taken by non-state actors in the establishment of the International Criminal Court and the adoption of the Ottawa Treaty on the prohibition of anti-personnel mines are only illustrations of the growing importance of their role. Efforts should be devoted to understand this role better and to identify strategies to enable us to take full advantage of their contributions to the elaboration and implementation of international standards.

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<sup>1</sup> The ICRC created a website to help re-establish contact between family members in the former Yugoslavia. To assist persons wishing to locate their relatives, computers were installed in ICRC offices in Albania, Macedonia, the Federal Republic of Yugoslavia and Bosnia-Herzegovina. See <http://www.familylinks.icrc.org>. Moreover, a team assembled by the International Rescue Committee (IRC) provided Internet service to Kosovo barely 100 days after the arrival of UN peacekeepers. The project offered free, reliable and inexpensive communications to local organizations and was instrumental in efforts to reunite families. See the Kosovo Internet Project's website <http://www.ipko.org>.

Multinational corporations (MNCs) operating in conflict zones are non-state actors whose potential exists for fostering conflict prevention and generating wider respect for human security. It is now generally recognized that management decisions of corporations at the headquarters and local levels can have an important impact on the course and duration of violent conflicts. In situations of political and social chaos, legitimate business operations can become unintentional parties to the political or military activities of national governments, local warlords or rebel groups, and coincidentally (or even cynically in some instances) feed war economies.

In most of today's conflict zones, there are multinationals with business interests. Thus, MNCs are increasingly caught in situations where state authority is diminished or absent altogether and where control over economic resources is a primary objective of the disputing parties. Warring groups, no longer necessarily the direct or indirect ideological clients of one superpower or another, now often finance their activities through the control of local economic resources and the profiteering of scarce goods. This means that MNCs as producers or dealers of these goods become implicit, if unwilling, accomplices in prolonging conflict. Most acutely implicated by this problem, of course, are those MNCs involved in the extraction of natural resources, such as oil, natural gas, timber, rubber, and precious metals and gems.

For MNCs, the dilemmas posed by operating in conflict zones can be complex and have unforeseeable negative consequences for which they are ill prepared. None the less, the risk of local, international and, most importantly, investor backlash makes these consequences too significant for them to ignore. Continuing partnerships with repressive and corrupt host regimes or other non-state actors that violate human rights and humanitarian principles, deciding whether or not to use their sometimes significant local influence to reduce tension, and determining if and when to abandon operations are just three of the issues facing corporations. Apart from a few well-publicised exceptions, however, it is not corporation's general absence of concern that leads them to make choices with negative repercussions for human security, but rather a lack of information about, and a lack of understanding of, humanitarian and human rights principles and their own responsibilities, as participants in the conflict, to uphold them.

This paper, however, focuses on armed groups as non-state actors engaged in violent action. It deals specifically with the role and responsibility of armed groups with regard to the implementation of international humanitarian and human rights standards in situations of internal armed conflict. It is limited to this particular type of non-state actor and these particular circumstances in order to illustrate the requirements and benefits of a strategy engaging non-state actors on human security issues. It is hoped that this exercise will inspire further attempts to develop new strategies to engage these and other non-state actors on human security issues.

In a first section, this paper examines strategies to persuade armed groups to adhere to humanitarian law, a result that would greatly improve human security among the population at risk. It then examines the complexity and diversity of armed groups and the inherent vagueness of international law regarding non-state actors, analysing the opportunities and difficulties encountered when engaging armed groups on humanitarian and human rights standards. In the final section, the paper reviews how best to get armed groups to implement international standards.

## Armed groups in internal armed conflicts

Currently, one of the most dramatic threats to human security is internal armed conflict. In 1998 alone, violent conflicts took place in at least 25 countries. Of these armed conflicts, 23 were internal, engaging one or more non-state armed groups.<sup>2</sup> A crucial feature of internal conflicts is the widespread violation of humanitarian and human rights by armed groups, from rebel movements to private militias.<sup>3</sup> With the proliferation of weapons, especially small arms and landmines, and the erosion of state control, threats to human security are increased, both because people are the direct targets of violence and as a result of the organized crime and random violence that occurs in these chaotic conditions. Armed groups are certainly not accountable for all the violence perpetrated against civilians, but their presence among civilians blurs the dividing line between combatants and non-combatants, the basic concept on which humanitarian protection rests. In this context, understanding and promoting the responsibilities of armed groups towards civilians has become a crucial element of protection strategies.<sup>4</sup>

Despite the increased role of non-state armed groups in internal conflicts, international humanitarian law (IHL) and human rights standards offer only limited opportunities to persuade armed groups to comply, whereas a collection of legal instruments has been developed to supply state actors with a comprehensive framework, guiding the conduct of their combatants. This discrepancy between state and non-state actors reveals the extent to which the development of humanitarian law has been subjugated to political considerations, denying significantly less protection to armed groups than to state actors. Despite the critical role of armed groups in internal conflicts, human rights law is *de jure* applicable only to state entities, and IHL offers only general principles of protection under common Article 3 of the four Geneva Conventions and some rules of engagement in Additional Protocol II. Moreover, the conditions for the application of IHL are often not met in minor conflicts.

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<sup>2</sup> See the SIPRI Yearbook 1999, *Armaments, Disarmament and International Security*, Oxford University Press, 1999.

<sup>3</sup> In his *Report on the Protection of Civilians in Armed Conflicts*, the UN Secretary-General noted that: 'In many of today's armed conflicts, civilian casualties and the destruction of civilian infrastructure are not simply the by-products of war, but the consequence of the deliberate targeting of non-combatants. The violence is frequently perpetrated by non-state actors, including irregular forces and privately financed militias.' See UN document S/1999/957 of 8 September 1999, p. 2.

<sup>4</sup> To further this understanding, the Henry Dunant Centre for Humanitarian Dialogue, in cooperation with the Human Security Program at Harvard University, hosted an expert workshop on the role and responsibilities of armed groups towards civilians, in Geneva 14 - 15 December 1999. The results of the workshop were further reviewed at a conference organized by the Henry Dunant Centre and Wilton Park in February 2000. This policy paper is based partly on the discussions conducted in both forums. It also draws on the consultation document published in December 1999 by the International Council on Human Rights Policy: *Ends and means: human rights approaches to armed groups*. The Council will publish a final version and summary of this report in July 2000.

Most armed groups have been barred from participating in conferences on international standards applicable to armed conflicts, and contacts with armed groups remain under intense political pressure from many sides. The Rome Conference on the Establishment of the International Criminal Court provides a recent illustration of states' reluctance to recognize the role of non-state armed groups in the implementation of international standards. While hundreds of NGOs were represented at the Rome Conference among more than 130 state delegations, several in an official capacity, no representatives of armed groups were present. The statute adopted at the Conference in July 1998 offers very few provisions for engaging armed groups, imposing obligations only on states and individuals. In particular, it confers no legal authority on non-state actors for the prosecution of war crimes, despite the fact often only the leader of armed groups can exert control over non-state combatants. One can legitimately question the practical relevance of these legal developments where governments have lost their capacity to bring non-state criminals to trial, or have relinquished this authority as part of a peace process, as in Sierra Leone regarding the RUF combatants.

Arguably, most armed groups would probably be unable to fulfil their obligations under international treaties adequately, owing to their lack of capacity or their unwillingness willingness to respect these standards in their operations. As this same observation also applies in large part to many state actors, particularly in complex emergencies, the opportunity to engage armed groups actively in the protection of civilians in situations of armed conflicts should nevertheless be sought. Armed groups are essentially involved in the use of force outside legal and legitimate frameworks. Efforts to engage them in respect of national or international standards may appear at best naive, at worst corrupted by political considerations. Yet the long-standing experience of humanitarian organizations, such as the ICRC and other major humanitarian organizations, engaging with various armed groups has demonstrated the potential benefits of such a dialogue for the civilian population. From a practical perspective, armed groups remain key actors for protection strategies:

- as *de facto* governments within the territories under their control;
- as military entities active in combat;
- as authorities responsible for the protection of humanitarian operations;
- as political entities which may eventually be party to a peace settlement.



# **Strategies for seeking the adherence of armed groups to international standards**

Many practitioners argue that one should distinguish two basic steps when approaching armed groups on humanitarian issues. First, one must assess the main characteristics of the group to be approached and, considering its cohesion, judge how useful a dialogue with it will be. Although this may sometimes require preliminary contacts with the group, the aim is to assess the merit of a dialogue with it aside from the stance of its leaders on humanitarian issues. Once this preliminary determination has been made, plans to engage the group in a humanitarian dialogue should be elaborated, and account should be taken of various factors influencing its receptivity to international standards.

## **I. Defining the main characteristics of armed groups**

Most practitioners agree that the main characteristics of armed groups should be identified prior to engagement. However, as armed groups differ considerably, from Mafia-like militias to religious movements to corporate armies, common descriptions should not be elaborated too specifically. Furthermore, the purpose of the definition should not be to exclude particular groups from protection strategies but to identify minimum organizational standards that would make contacts worthwhile. In this context, the main characteristics of armed groups can be described as follows:

### ***1. A basic command structure***

The combatants are organized according to a unitary command structure and follow its instructions. The commanders have at least a minimum control over the conduct of their combatants, particularly regarding the group's behaviour towards civilians. A dialogue on humanitarian issues with fragmented groups and groups with strong internal dissension are likely to be unproductive, if not counterproductive.

### ***2. The use of violence to achieve political ends***

The group is engaged in a political struggle, that is an attempt to redefine the political and legal basis of society through the use of violence. Violence is often employed not as a military tactic aiming for a takeover, but as a means to render the political status quo unsustainable. Violence in this context can take innumerable forms, particularly towards civilians; they include killing, raping, kidnapping, torture and extortion; attacks on crops, water sources, local markets and other civilian infrastructures, such as schools and administrative offices; and ambushes on commercial roads, power lines etc. Combatants often engage in parallel criminal activities, using force to extract resources for their own personal gain, through

extortion, drug trafficking and illegal timber or diamond trading, for example. In many conflicts, such as those in Colombia and in Myanmar, the dual character of the combatants' activities questions the cohesion of the groups as political entities. The extent to which combatants are allowed to engage in independent criminal activities indicates how well a group's leaders control it.

### ***3. Independence from state control***

The issue of state control is often problematic. In some situations, it may be difficult to distinguish between autonomous pro-government forces, such as paramilitary groups in Colombia, and government-controlled paramilitary forces, such as the South Lebanese Army in Israeli-occupied Lebanon. Government control of paramilitary groups is difficult to assess, since it is often designed in part to make the government unaccountable for the acts committed by these forces. Logistical support from government forces to paramilitary groups, such as air transport, is an important but partial indicator of government control. The degree of the leaders' control over the conduct of combatants remains an important indicator of the independence of the group.

Practitioners generally encourage caution with groups whose characteristics fail to meet one or more of these criteria, particularly with the newly created groups, which often emerge within collapsed states. Armed groups that are unable to command their combatants and impose restraints over their conduct are unlikely to engage constructively in a dialogue on humanitarian issues. Such a dialogue may also be dangerous for those conducting it. Groups to which this applies include irregular and disorganized combatants, criminal gangs, bandits and looters. Inevitably, the violence perpetrated by these groups requires a more coercive response; it is primarily the responsibility of states to restore and maintain public order within their territories. International actors may also be involved under Chapter VII of the UN Charter if a national government is unable or unwilling to fulfil this responsibility. Humanitarian organizations have learned through bitter experience the risks the presence of these loose groups bring, where humanitarian personnel represent an easy prey for predatory groups.

Similarly, some have argued that the willingness of armed groups to abide by fundamental humanitarian principles should also be examined before anyone engages with them, particularly with violent armed groups notorious for ruthless and wanton conduct towards civilians. Contacts with these groups may provide them with political legitimacy without there being any realistic hope of improved behaviour. Others, such as the ICRC, believe that the evaluation of this characteristic requires at least a minimal exchange of views with the leaders of a group and that one should not forfeit from the outset any opportunity to seek compliance to humanitarian standards from armed groups from this consideration alone.

## II. Evaluating the receptivity of armed groups to international standards

Once an armed group has been selected for a dialogue on humanitarian issues, the success of the strategy depends largely on a thorough analysis of its receptivity to humanitarian and human rights standards. This receptivity appears to be contingent on military, political, economic, social and cultural factors. Understanding the dynamic of the group in each of these areas is essential for an evaluation of its willingness and capacity to abide by humanitarian and human rights standards.

### 1. *Military factors*

*Beyond the organizational characteristics of the groups mentioned in the preceding section, there are additional military factors to be considered, in particular relating to the military and tactical position of a group in the field.*

*From a military perspective, the principle that combatants should be separated from civilians often makes little sense to non-state-armed groups. On the contrary, non-state-armed groups rely heavily on their proximity to civilian populations:*

- *to avert attacks from other parties (e.g. Sri Lanka);*
- *to sustain themselves in economic and human terms (e.g. Sierra Leone, Sudan);*
- *to consolidate their control over a territory and its resources (e.g. Colombia, Myanmar);*
- *to exert pressure on the adverse party, by terrorizing and displacing populations (e.g. Democratic Republic of Congo, Burundi, Uganda).*

Arguably, the receptivity of an armed group to humanitarian standards in military terms involves a capacity to dissociate its combatants from the surrounding civilian population to some extent. This capacity depends on factors including:

1. the vulnerability of the group to attacks, aerial or otherwise;
2. its dependence on domestic resources rather than on foreign support (e.g. human resources from refugee camps in border areas rather than local villages);
3. its control over a territory;
4. the military advantages it can gain by displacing large populations.

Humanitarian organizations and other actors seeking the adherence of armed groups to international standards may not be in a position to influence these factors significantly. However, an analysis of the military position of a group within these parameters facilitates the planning of negotiations with it. Humanitarian organizations can hardly expect an armed group under strong pressure in the field to make landmark

concessions regarding their distance from the civilian population. However, an armed group may be inclined to consider practical measures to sustain the population in times of crisis to prevent the forced displacement of people by government forces.<sup>5</sup> The extent to which humanitarian organizations should consider or even participate in such operations is always controversial. Engagement with armed groups should always proceed with a full awareness of the military reality. Humanitarian organizations should be prepared to propose innovative arrangements (e.g. humanitarian zones, ‘zones of tranquillity’, humanitarian corridors etc.) when engaging with such a group, in order to avert the worst abuses of the principles of humanitarian assistance by the parties to the conflict.

## **2. Political factors**

*The receptivity of armed groups to international standards also depends on their organizational structure. Armed groups can hardly be designated as a single political category considering the extreme diversity of their objectives and modus operandi. Interestingly, the willingness of armed groups to discuss humanitarian issues depends partly on their internal political dynamics. More sophisticated groups tend to be more inclined towards standards and codes of conduct, whereas groups with vaguer political objectives tend to be more reluctant to discuss standards they find counterintuitive. Some groups have clear political objectives (e.g. FARC or ELN in Colombia), whereas others are filling a political vacuum left by disintegrated states (e.g. Somalia, Afghanistan). A critical aspect of efforts to promote the protection of civilians is the extent to which armed groups are seeking to gain and maintain basic political legitimacy within their constituency, such as a tribal area, an ethnic or social group, a region, or within the international community.*

Some would argue that the political legitimacy of armed groups depends on their respect for certain norms of behaviour and the conformity of their action to societal values, including basic humanitarian values. This legitimacy is likely to be harmed by the brutal behaviour of a group's combatants towards civilians. To enhance their political stance, some groups will seek to develop humanitarian and social services for people and refrain from attacking civilian targets. This explains why the Palestinian Liberation Organization (PLO) changed strategy after the deposition of its signature on the four Geneva Conventions in 1989. Other groups, such as the RUF in Sierra Leone and UNITA in Angola, entirely disregard issues of legitimacy and focus solely on access to natural resources for their sustainability.

Finally, the receptivity of armed groups to international standards relies to a certain extent on the structure of their leadership. Armed groups with a single cult-like leader,

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<sup>5</sup> For example in cases like the *camps de regroupement* in Burundi and Myanmar, see United States Committee for Refugees Current Country Reports for Burundi and Burma at [www.refugees.org](http://www.refugees.org)

such as the LTTE in Sri Lanka, are unlikely to discuss humanitarian standards, whereas armed groups with a broader political leadership are more likely to be willing to comply - such as the FARC in Colombia or SPLA in Sudan. Leaders who are authoritarian in their treatment of their own members often behave in a similarly oppressive fashion towards the civilian population under their control. Conversely, a group with a broadly democratic leadership structure, which aspires to be a viable political entity, will be more open to reform and a dialogue on the conduct of its combatants.<sup>6</sup>

Humanitarian organizations can have a significant influence on the political dynamic of an armed group. They can maintain and nourish contacts within more progressive segments of the group. They may favour the establishment of internal processes for dialogue on humanitarian issues.<sup>7</sup> In this context, one might consider encouraging an armed group to establish a 'humanitarian wing' to serve as the basis of its 'health and social services' with which a dialogue on technical matters could be engaged. Such a dialogue might promote a stricter compliance to international standards within the ranks of the group.<sup>8</sup>

### **3. Economic factors**

Although their influence seems evident, little attention has been given by humanitarian organizations to the economic motives of armed groups. The reason for this is that wars have traditionally been approached as tragic events, described in terms of human and economic costs. To understand and develop protection strategies on the basis of the economic motives of armed groups requires a singularly different perspective on war, in which not only costs but also benefits are acknowledged. Evidently, many humanitarian organizations are not comfortable with this type of calculation.

The prevalence of economic motives challenges the traditional assumption that wars are conducted primarily to defeat the enemy. In many cases, such as Sierra Leone, DRC and Angola, winning the war by defeating the enemy has become a secondary goal. Wars, and internal wars in particular, have become lucrative enterprises in which combatants are more likely to survive and prosper than civilians. Understanding the

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<sup>6</sup> See the consultation document published in December 1999 by the International Council on Human Rights Policy, *Ends and means: human rights approaches to armed groups*.

<sup>7</sup> See, for example, the establishment of a humanitarian commission of the SPLA to engage with Operation Lifeline Sudan (OLS); for details refer to the Operation Lifeline Sudan Reports available on ReliefWeb at [www.reliefweb.int](http://www.reliefweb.int); or the creation of the Palestinian Red Crescent in 1968 see; <http://www.palestinercs.org/History.htm>.

<sup>8</sup> See, for example, the UN-Taliban Joint Technical Commission established under the memorandum of understanding of May 1998 on health and education issues in Afghanistan.

political economy of a civil war becomes as critical to the planning of protection activities as understanding political and military motives.

Fortunately, governments and international organizations can interfere substantially in the cost/benefit analysis of armed groups in support of protection strategies through, for example, the imposition of trade embargoes or financial sanctions. Threats of coercive economic measures by a group's sponsors may also considerably influence the conduct of its combatants. The increasing interaction between governments, the private sector and humanitarian and human rights organizations may also help to persuade armed groups to comply with international standards based on their economic and commercial affiliation.

#### ***4. Social and cultural factors***

Armed groups are inherently social entities, and their existence has to be understood within their social environments. A critical objective of protection strategies is to help armed groups embark on a path of compliance based on their social and cultural values, without interfering with the political issue at conflict: their recognition as legitimate political actors. For example, although Taliban fighters and Northern Alliances forces in Afghanistan have been fighting each other for years on ideological and religious grounds, they are far closer to each other in social and cultural terms than with any other groups or entities in the world.<sup>9</sup> Understanding the social and cultural nature of armed groups is undoubtedly the most important asset of protection strategies. If they are to persuade armed groups to recognise their obligations under international law, humanitarian organizations, and the international community in general, must be in a position to appreciate their social and cultural environments. In many situations, the basic principles of protection strategies can be presented to armed groups in a way that makes sense in social and cultural terms. Interpreting international standards in social and cultural terms does not require their perversion. On the contrary, it may provide numerous ways of enticing armed groups towards compliance. In these terms, compliance to international standards involves:

- saving the lives and preserving the dignity of civilians as an essential aspect of the long-term accomplishment of the armed group;
- improving social stability in the zones under its control and promoting peaceful behaviours;

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<sup>9</sup> The slow but steady implementation by the Taliban authorities of the international standards relating to the education of girls was, in part, the result of innovative approaches undertaken by the United Nations and some NGOs, based on a thorough analysis of the social, cultural and historical factors influencing the decision-making processes of the Taliban movement. See the Report on the DHA mission to Afghanistan, May 1997, available at <http://www.reliefweb.int> .

- improving the effectiveness and cohesiveness of the armed group as a social organization and reinforcing its social cohesion;
- improving the group's legitimacy as a political actor at the regional, national and international levels.

Some organizations, particularly human rights NGOs, tend to oppose tactics that emphasize the social and cultural perspectives of armed groups, especially when this perspective contravenes fundamental human rights standards. Although a constructive dialogue on humanitarian issues should allow all parties to express their perspectives and explain their positions, humanitarian organizations should remain cautious when engaging with armed groups on cultural grounds and avoid providing legitimacy to practices that are considered illegal under international law. Agreements signed with armed groups should always stress from the outset the primacy of international standards.

## Ensuring respect for international standards by armed groups

Strategies to gain the adherence of armed groups to basic humanitarian standards must include practical steps for all parties. The real test of the compliance of armed groups takes place in the field. Without mechanisms to follow up and monitor a group's commitments, most of the provisions of humanitarian agreements are likely to remain *lettres mortes*. The most complex and underdeveloped aspect of these strategies is the actual implementation of humanitarian standards by armed groups.

Similarly to interactions with governments, humanitarian and human rights organizations can proceed on the basis of one of two distinct approaches to the implementation of international standards by armed groups. Once an armed group has agreed to comply with international standards:

- they can engage in a dialogue with the armed group and assist them in building their capacity to respect humanitarian and human rights norms; or
- they can aim to bring pressure to bear on the armed group by shaming it in front of the international public and its own constituency for violations of international standards.

Each of these approaches has its protagonists and its own record of proven successes and deplorable failures. The two approaches differ with respect to their perception of the main obstacles to the implementation of international standards. The first considers the main problem to be an armed group's lack of capacity to ensure respect for international standards, which requires buttressing; the second considers a lack of willingness to be the obstacle, indicating the need for political pressure to obtain respect for the rules. Shaming an armed group that is unable to implement the rules of International Humanitarian Law (IHL), for example because of the combatants' ignorance of the rules, will serve no useful purpose. Assistance to a group that is unwilling to respect these rules, for example by providing dissemination services to the combatants, will be used by the group only for its political value. Therefore, a careful analysis of the most promising path (building capacity or exerting pressure) should be made at the outset.<sup>10</sup>

### ***1. Building capacity***

Practically, responsibility for the instruction and supervision of field commanders lies with the political leaders of a group. Equally, responsibility for the enforcement of the

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<sup>10</sup> See also *Ends and means: human rights approaches to armed groups*, consultation document published by the International Council on Human Rights Policy, December 1999.



rules and the prosecution of violators also lies with them. This responsibility is the basis for the group's accountability for the respect of international standards. It involves the ability to investigate the alleged violations and the capacity to impose corrective measures, including the prosecution and punishment of violators. The participation of the group's leaders in this effort helps re-enforce its sense of accountability.

Common Article 3 of the four Geneva Conventions of 1949 provides a practical framework for this type of exercise. It calls on all parties to internal armed conflicts to take part in the implementation of the fundamental provisions of IHL with no influence 'on the legal status of the Parties to the conflict'. Under Common Article 3, an organized armed group is considered a full party to the implementation of the fundamental provisions of IHL and an equal stakeholder with states with regard to humanitarian issues, even though it is not conferred full legal status under international law. Armed groups can sign official agreements under IHL with international actors, such as the ICRC or UN humanitarian agencies, and acknowledge their responsibility on humanitarian issues, providing them with some international legitimacy humanitarian issues. More recent examples of this approach can be found in various agreements and memoranda of understanding with armed groups on humanitarian standards.<sup>11</sup>

Strategies to build the capacity of armed groups to implement international standards begin with the establishment of a dialogue with leaders. Personal links with the leaders and the development of contacts over time are often required if there is to be at least a minimum of trust. Third parties, such as members of the diaspora, churches, political parties or NGOs, may help establish these contacts. This process must be clear in its objectives and principles of engagement, both in relation to the armed group and with respect to the international community, which may raise doubts or set obstacles in the way of such endeavours. Building the capacity of armed groups to respect international norms relies, of course, on the international community's ability to help them do so. An organization should avoid promising support it cannot afford. In this context, for example, the demobilization of child soldiers requires not only the withdrawing of their weapons, but also the provision of educational and nutritional programmes for years to come.

## **2. Exerting pressure**

International public pressure ('name and shame') is a preferred tool among human rights NGOs. Shaming armed groups essentially questions their legitimacy within

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<sup>11</sup> These memoranda include the ICRC *MoU Bosnia-Herzegovina* (1992), UNICEF *Ground rules with respect to Sudan* (1995), OCHA *MoU/ Afghanistan* (1998), and OCHA *Principles of engagement with respect to the Democratic Republic of Congo* (1998).

their own constituencies or domestic support groups, their diasporas and the international community in general. This action may have a significant impact on the behaviour of groups that are particularly dependent on international support for their war efforts, such as the rebel movements in southern Sudan and their support from the US government and American Christian support groups. It has a much more limited impact on groups that rely on local constituencies and are not responsive to international public opinion, such as the Taliban movement. Some have argued that the indiscriminate use of shaming may be counterproductive and may encourage armed groups to rely increasingly on forms of local extortion for their sustainability (e.g. LTTE in Sri Lanka, RUF in Sierra Leone).

Human rights organizations and humanitarian agencies are in fact complementary in their approach. Without the pressure of advocacy groups, most offers of humanitarian agencies to engage with armed groups would have little impact, or this impact would quickly erode in the face of the military, political and economic factors previously mentioned. To ensure that both strategies are used in an optimal manner, efforts should be made to distinguish humanitarian organizations from advocacy groups, in terms of institution and mandate. The establishment of a dialogue with an armed group is a long and tedious operation. In this context, any reference made to shaming acts by similar organizations only complicates the work of humanitarian organizations involved in this process.

## Conclusion

This paper attempts to elaborate a set of strategies to engage armed groups in the implementation of humanitarian and human rights standards. These strategies will remain largely experimental, as the types of situation and armed group evolve constantly. Therefore, these observations should not be seen as a set of rules for engaging armed groups, but rather as a series of reflections from practitioners on their own experiences.

However, engaging armed groups on humanitarian issues should not be considered an experience of limited value. On the contrary, establishing a sustainable dialogue with armed groups about the protection of civilians may well represent the most important challenge facing human security. Among all sources of insecurity, the threats posed to civilians by internal armed conflict are the most tangible problem to be addressed, far simpler than issues related to poverty, global warming or the arms trade. It is because of the tangible and humane character of the benefits of this engagement that we should approach armed groups with a new perspective on personal security.

Two broad strategies are available: exerting pressure on the groups as political entities and building their capacity as administrative organizations. Each of these strategies requires a careful analysis of the vulnerabilities of the armed groups and their receptiveness to international standards. More importantly, the international community needs to coordinate its actions, so that one organisation's progress is not neutralised by another. The international community is unlikely to adhere to such a comprehensive agenda in a concerted manner. Ultimately, the effectiveness of such action relies on the professionalism of state and non-state actors in the field.