



International humanitarian law dissemination session to Sudan Liberation Army combatants in Darfur, Sudan, May 2006. © Boris Heger/ICRC

# Options for Engagement

## ARMED GROUPS AND HUMANITARIAN NORMS

### INTRODUCTION

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*In order to spare civilians the effects of hostilities, obtain access to those in need and ensure that aid workers can operate safely, humanitarian actors must have consistent and sustained dialogue with all parties to conflict, State and non-State (UNSC, 2009b, para. 40).*

The United Nations Secretary-General's May 2009 report on the protection of civilians provides strong support for dialogue with armed groups aimed at achieving humanitarian objectives. It acknowledges the experiences of a growing number of actors that have been engaging armed groups on issues of international concern, including general respect for international humanitarian law (IHL), the anti-personnel mine ban, and the protection of children in armed conflict.

In comparison, dialogue with armed groups on the specific issue of small arms is mostly confined to peace talks and disarmament, demobilization, and reintegration programmes. Such focus on the post-conflict phase misses a big part of the picture: armed groups are key actors in most contemporary armed conflicts,<sup>1</sup> many of which are of a protracted nature. As such, the way they regulate—or fail to regulate—the use and management of small arms by their fighters can diminish or exacerbate violence against civilians. Regulation can also affect the incidence of casualties caused by accidental small arms use, and condition the likelihood of ammunition depot explosions. In other words, dialogue with armed groups on the small arms issue during the conflict phase can help save civilian lives.

This chapter reviews progress achieved to date in the engagement of armed groups on humanitarian norms and reflects on the utility of engaging groups on the small arms issue. Principal conclusions include:

- Diverse armed groups have taken measures to address humanitarian concerns, including by facilitating access to populations affected by armed conflict, banning anti-personnel mines, and renouncing the recruitment and use of children.
- Humanitarian actors play an important role in making humanitarian commitments by armed groups effective in practice, notably by providing support for implementation and monitoring compliance.
- Prohibiting indiscriminate use and unsafe handling of small arms are among the measures armed groups can take to reduce the impact of these weapons on civilians.
- Engaging armed groups on their use of weapons of specific concern—such as surface-to-air missiles and indirect fire weapons—is especially important.
- Keeping armed groups' ammunition depots away from civilian dwellings and secure from theft can reduce the safety threats posed by unstable ammunition and limit the risk of further arms proliferation.

In this chapter, the term ‘armed group’<sup>2</sup> refers to armed ‘insurgency’ movements,<sup>3</sup> as well as de facto authorities or governments that seek statehood but have yet to receive full recognition from the international community.<sup>4</sup>

The chapter begins by introducing the concept of humanitarian engagement of armed groups and key experiences to date. It then reviews some of the main lessons learned by humanitarian actors active in this field, with a particular focus on their use of written measures adopted by armed groups as a tool for engagement. The chapter concludes by identifying potential areas of engagement with armed groups to reduce the negative consequences of the proliferation and use of small arms. This analysis draws largely from a review of more than 50 unilateral declarations, bilateral agreements, peace accords, humanitarian agreements, and internal regulations adopted by historical and active armed groups, as compiled in Bangerter (2009a), Geneva Call (2009), and other sources.

## THE HUMANITARIAN ENGAGEMENT OF ARMED GROUPS

### The case for engagement

International law providing for the protection of civilians in situations of armed conflict—namely IHL and international human rights law (IHRL)—is shaped by states. While IHL binds both state and non-state parties to a conflict, IHRL has traditionally created obligations only on states, although there is currently a movement towards making IHRL applicable to armed groups (see Box 12.1). Furthermore, the development of these rules is even more centred around states. Armed groups cannot negotiate or become parties to international treaties,<sup>5</sup> and there is no consensus on whether they contribute to the formation of customary IHL. This leaves armed groups with little incentive to express their adherence to or feel bound by international law.

### Box 12.1 Obligations of armed groups under IHL and IHRL

IHL is a set of rules that seeks, for humanitarian reasons, to limit the effects of armed conflict. Although IHL is created by states, it also addresses the behaviour of (non-state) armed groups. Common Article 3 of the 1949 Geneva Conventions contains obligations for ‘each Party to the conflict’. The 1977 Second Additional Protocol to the Geneva Conventions is the first and only treaty exclusively regulating non-international armed conflicts, and, although it does not use the explicit language of Common Article 3, many commentators affirm that it binds armed groups and states equally.<sup>6</sup>

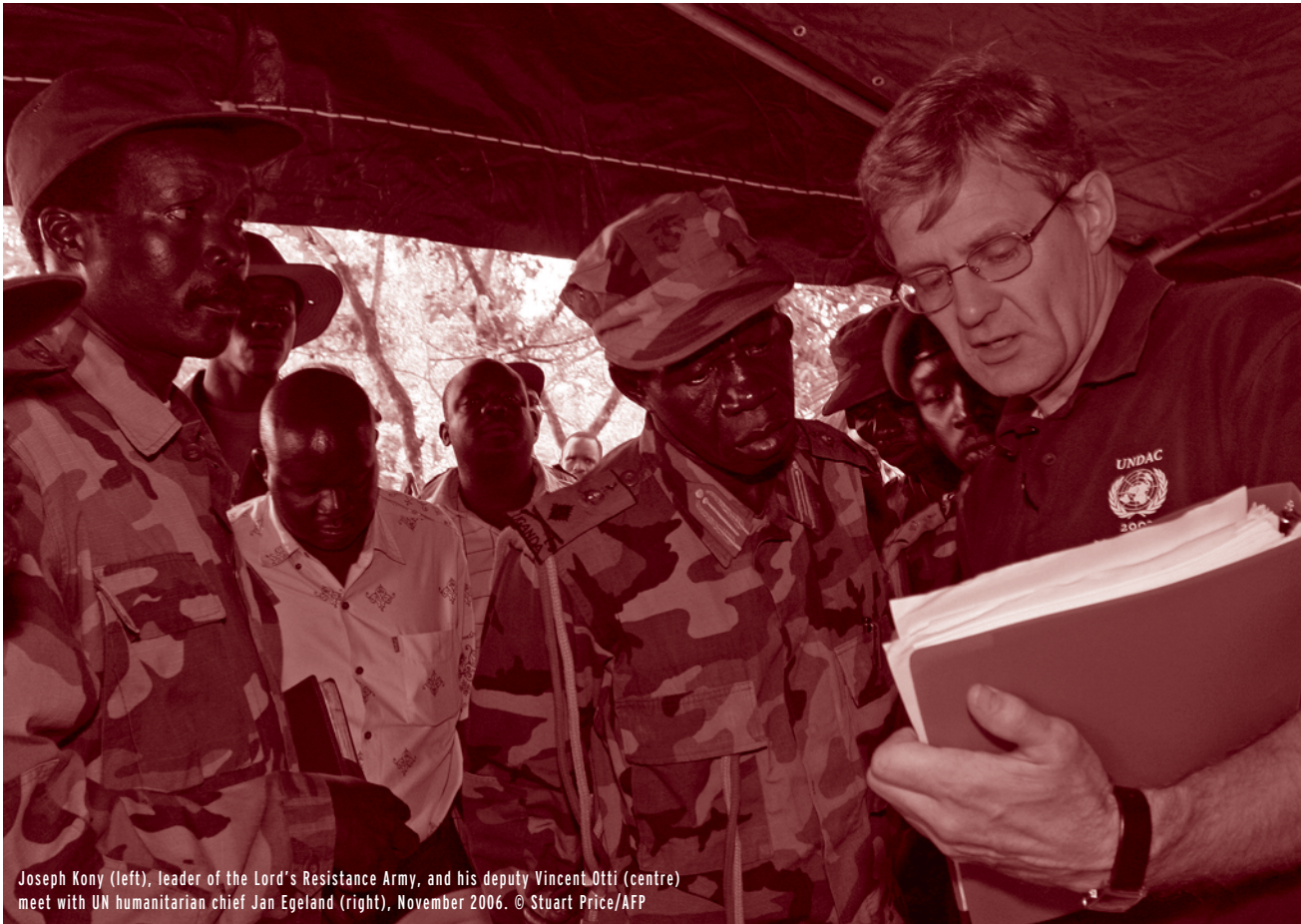
In addition to treaty law, a large body of customary rules applies to both international and non-international armed conflicts. Customary IHL, which is based on representative, widespread, and consistent practice, combined with *opinio juris*<sup>7</sup> among states, is binding on all parties to a conflict without any formal expression of acceptance and thus enjoys greater application to armed groups.

Broadly speaking, IHL provides for the protection of persons who are not, or no longer, taking part in hostilities (such as the wounded, detainees, and civilians). It also places restrictions on the means (types of weapons) and methods (military tactics) of warfare. Specifically, IHL prohibits all means and methods of warfare that:

- fail to discriminate between those taking part in the fighting and those, such as civilians, who are not;
- cause superfluous injury or unnecessary suffering; or
- cause severe or long-term damage to the environment.

In contrast, IHRL protects the lives, health, and dignity of individuals at all times, in war and peace alike. Although the traditional view is that IHRL applies only to governments, and not to armed groups, the application of human rights norms to these groups is increasingly accepted. The UN Security Council, for instance, has called for armed groups to be held responsible for human rights violations.<sup>8</sup> In the same vein, a growing number of scholars<sup>9</sup> and actors<sup>10</sup> are concluding that armed groups are bound by IHRL. The expansion of the normative framework applicable to armed groups beyond IHL enhances protection in situations in which violence has not reached the level of an armed conflict.

Source: Richard (2009)



Joseph Kony (left), leader of the Lord's Resistance Army, and his deputy Vincent Otti (centre) meet with UN humanitarian chief Jan Egeland (right), November 2006. © Stuart Price/AFP

Human rights groups and, more recently, the UN have sought to respond to the threats armed groups pose to civilians by exercising public pressure on the groups responsible for human rights abuses (Policzer, 2005, p. 2; UNSC, 2005, paras. 2, 3). This 'naming and shaming' may have a significant impact on the behaviour of groups that are dependent on international (including diaspora) support for their war effort (Bruderlein, 2000, p. 15). It may be less effective, however, with groups that rely on local constituencies and are not responsive to international pressure.

Humanitarian actors have developed complementary initiatives to engage armed groups more inclusively towards compliance with humanitarian norms.<sup>11</sup> Engagement consists of non-coercive interaction with, or participation in, processes involving armed groups.<sup>12</sup> Humanitarian actors practice engagement to achieve one or several of three main humanitarian objectives: securing access to populations affected by armed conflict, enhancing the security of humanitarian workers, and promoting compliance with international law (Mc Hugh and Bessler, 2006, p. 5). Common Article 3 of the Geneva Conventions provides a legal basis for engagement: 'An impartial humanitarian body, such as the International Committee of the Red Cross [ICRC], may offer its services to the Parties to the conflict.'<sup>13</sup> While not all armed groups are responsive to engagement efforts, a number of them have agreed to collaborate with humanitarian actors. Their motivations for such dialogue include facilitating the deployment of humanitarian projects in their areas of operation, demonstrating a 'high moral ground', and responding to pressure from their supporters.

## Engagement experiences

This section provides an overview of engagement efforts in three areas: respect for general IHL, the anti-personnel mine ban, and the protection of children in armed conflict. While the humanitarian engagement of armed groups is by no means limited to these issues,<sup>14</sup> these processes are currently the most advanced and systematic.<sup>15</sup>

### Promoting respect for general IHL

In the area of IHL and armed groups, the ICRC promotes 'the faithful application of international humanitarian law,' along with its 'understanding and dissemination' (ICRC, 2008, p. 3). While the organization works primarily in situations of armed conflict, it has initiated dialogue with urban gangs in some contexts (see Box 12.2).

The ICRC conducted IHL initiatives with some 75 armed groups in about 30 countries in 2009.<sup>16</sup> Such engagement primarily consists of a confidential dialogue with armed groups to discuss core 'protection' issues: the group's conduct of hostilities, its attitude towards the civilian population, and its treatment of the people it captures (ICRC, 2008,

#### Box 12.2 Dealing with gangs: the ICRC's experience in Haiti (2004-07)<sup>17</sup>

The end of internal strife in 2004 did not mean the end of violence in Haiti; rather, it favoured the emergence of a constellation of urban armed gangs with no clear political agenda. Some shantytowns were regarded as among the most dangerous places to live on earth. In 2003, in Port-au-Prince's Cité Soleil, around 250,000 inhabitants were caught in the crossfire of almost daily gun battles between gangs. Kidnapping, sexual violence, and extortion were rife.

Between 2004 and 2007, the ICRC engaged in regular dialogue with Haitian gangs, notably in Cité Soleil and Martissant, two shantytowns in the capital. Contacts with gangs aimed to facilitate a joint ICRC-Haitian Red Cross (HRC) project to evacuate casualties to hospitals.

Contrary to conventional wisdom, it proved possible, and even relatively easy, to enter into contact with gang leaders, who seemed to welcome the opportunity to talk to outsiders and express their views. In Martissant, at the end of 2007, the ICRC had direct and regular contact with leaders of five gangs, as well as good indirect channels of communication with the leader of a sixth. Only one gang was out of the ICRC's reach. Gang leaders were relatively easy to contact, as they needed to be visible in order to control their men. The ICRC's ability to deliver results quickly appears to have been critical to the success of the project. In Cité Soleil, between 2005 and 2007, the ICRC-HRC evacuated more than 1,500 people, of whom around 650 were victims of violence. In addition, around 200 were treated each month without being evacuated.

All gangs contacted by the ICRC promised to respect the medical evacuation project, not to harm ICRC or HRC personnel, not to stop vehicles, and not to prevent any wounded people from being evacuated. Radio advertisements further highlighted the need to respect medical personnel and vehicles. Gangs generally abided by their commitments, despite some isolated exceptions. This was facilitated by regular contact with gang leaders and agreed visibility measures for project staff (such as aprons). The ICRC was also able to support HRC first aid posts and to deploy water and sanitation programmes in both Cité Soleil and Martissant.

In addition, the ICRC discussed with gangs their behaviour towards the general population and the wounded. In a booklet depicting rules for 'men with arms', the ICRC emphasized the need to respect the wounded and the medical evacuation project as well as the need to respect and protect those who do not participate in violence. In 2007, the ICRC managed to meet with gang leaders to discuss specific incidents caused by their subordinates. This proved to be a particularly difficult endeavour. On the one hand, gang leaders were willing to take measures to guarantee the respect of both medical personnel and the wounded. On the other hand, they were very reluctant to discuss their groups' policies on kidnappings—part of their 'core business'—or to challenge their members on sexual violence. The lack of both an applicable IHL legal framework and of traditional control mechanisms appears to have contributed to this reluctance.

pp. 30–31). The ICRC also informs armed groups of the rules of IHL through dissemination sessions targeting commanders and fighters (Bangerter, 2008, p. 80). Lastly, the ICRC promotes the integration of IHL provisions into armed groups' policies and regulations, providing expert advice towards that end (ICRC, 2008, pp. 16–29; Bangerter, 2008, pp. 82–83).

### **The anti-personnel mine ban<sup>18</sup>**

Following the adoption of the Convention on the Prohibition of the Use, Stockpiling, Production, and Transfer of Anti-Personnel Mines and on their Destruction (hereafter the Anti-Personnel Mine Ban Convention) in 1997, members of the International Campaign to Ban Landmines voiced concern that anti-personnel mines would not be successfully eradicated unless armed groups, a number of which continued to deploy this weapon, also renounced their use.

In response, the Swiss-based non-governmental organization (NGO) Geneva Call has engaged armed groups in signing a Deed of Commitment for Adherence to a

Total Ban on Anti-personnel Mines and for Cooperation in Mine Action (hereafter Deed of Commitment). As of March 2010, 39 armed groups from ten countries and territories<sup>19</sup> had signed the Deed of Commitment. Signatory groups have by and large complied with their commitments. The majority of them have taken concrete steps to facilitate humanitarian demining, mine risk education, victim assistance, and the destruction of stockpiled anti-personnel mines (about 18,000 to date). Geneva Call monitors compliance with the Deed of Commitment and supports its implementation through training and dissemination workshops.

### **The protection of children in armed conflict**

The issue of the recruitment and use of children by armed groups has mobilized actors at various levels. Members of the Coalition to Stop the Use of Child Soldiers have been active in promoting the relevant international standards since the late 1990s,<sup>20</sup> often working in partnership with local communities (Withers, 2007, p. 231). UNICEF has also engaged in dialogue with armed groups to obtain the demobilization of children and a halt to recruitment (UNICEF, 2002). Since 2008, Geneva Call has worked with stakeholders and armed groups towards developing a deed of commitment on the protection of children in armed conflict.

Destruction of a stock of 2000 anti-personnel mines by the Polisario Front, Western Sahara, May 2008. © Geneva Call



The UN Security Council, through a series of resolutions, has called on parties to conflict—both state and non-state—that are involved in grave violations of the rights of children in armed conflict to develop and implement action plans to halt violations, in collaboration with the UN (UNSC, 2005, para. 7).<sup>21</sup> In March 2009, the UN Secretary-General reported that armed groups had signed action plans in Côte d'Ivoire, Sri Lanka, and Sudan. Other groups in the Central African Republic and the Philippines were in the process of negotiating plans. Some of these groups have begun demobilizing children from their ranks (UNSC, 2009a, pp. 30–41).

## LESSONS LEARNED FROM ENGAGEMENT<sup>22</sup>

A common feature of the engagement efforts reviewed above is the integration of humanitarian commitments into formal measures adopted by armed groups—such as unilateral declarations, bilateral agreements, peace and cease-fire accords, humanitarian agreements, deeds of commitment, and internal regulations (see Table 12.1). This section begins by defining these different types of measures and reflects on their comparative advantages and shortcomings

**Table 12.1 Examples of humanitarian commitments contained in formal measures adopted by armed groups**

Armed group	Country, date	Type of measure	Commitment	Source
Chin National Front (CNF)	Myanmar, undated	Internal regulation	1. Members of the Chin National Front must not kill, hurt, or torture civilians. Anybody holding arms and protecting the enemies are not civilians. The rest are termed as civilian and therefore, must not for any reason or for no reason, be killed, tortured or hurt.	CNF (n.d.)
Frente Farabundo Martí para la Liberación Nacional (FMLN)	El Salvador, 1990	Bilateral agreement (with the Government of El Salvador)	1. All necessary steps and measures shall be taken immediately to avoid any act or practice which constitutes an attempt upon the life, integrity, security or freedom of the individual. Similarly, all necessary steps and measures shall be taken to eliminate any practice involving enforced disappearances and abductions. Priority shall be given to the investigation of any cases of this kind which may arise and to the identification and punishment of the persons found guilty.	FMLN and GoES (2000)
Kurdistan Workers' Party (PKK)	Turkey, 1995	Unilateral declaration	1. In its conflict with the Turkish state forces, the PKK undertakes to respect the Geneva Conventions of 1949 and the First Protocol of 1977 regarding the conduct of hostilities and the protection of the victims of war and to treat those obligations as having the force of law within its own forces and the areas within its control.	PKK (1995)



as tools for promoting humanitarian norms.<sup>23</sup> It then reviews several other important lessons learned that can influence the effectiveness of engagement.

### The utility of formal measures

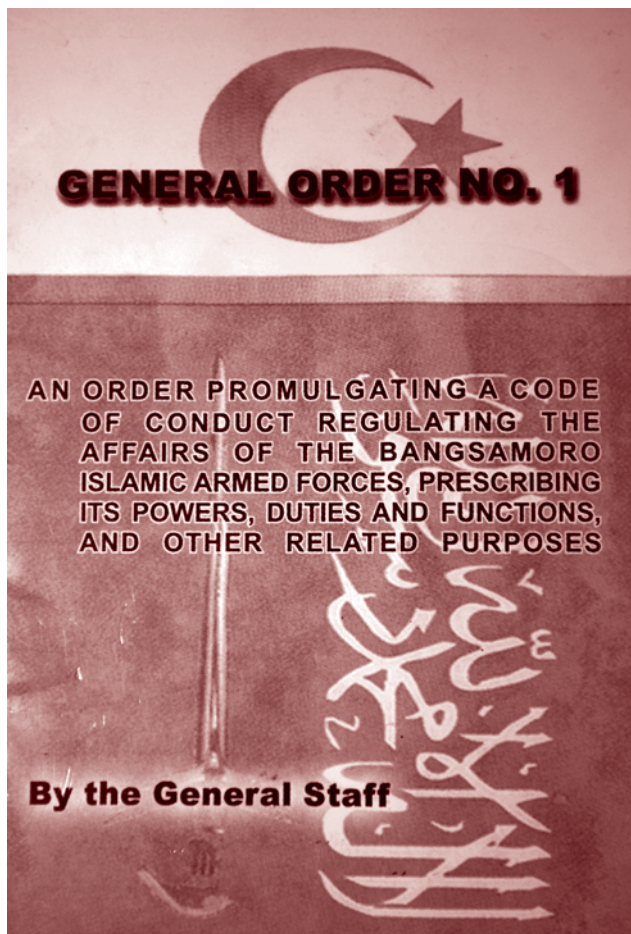
As armed groups do not participate in the formation of international norms, they will not always accept them as ‘their own’. Offering armed groups the opportunity to declare their adherence to humanitarian norms can therefore help address this lack of ownership while creating opportunities for external actors to monitor compliance (Sassòli, 2006, p. 23; Bongard, 2008b).

Armed groups often commit to humanitarian norms through *unilateral declarations*—including declarations of adherence to the Geneva Conventions as well as resolutions and commitments to abide by specific standards. They are generally public, although, in some cases, groups address them to humanitarian actors, such as the ICRC (Bangerter, 2008, p. 83). They can be written in the group’s own words, providing a measure of ownership. Their content is not always comprehensive, however. Wording can also be broad, with no attempt to apply international norms to the local context. Unilateral declarations rarely include provisions for the enforcement, monitoring, or verification of commitments.<sup>24</sup>

Liberation Tigers of Tamil Eelam (LTTE)	Sri Lanka, 2002	Peace accord (with the Government of Sri Lanka)	2.1. The parties shall in accordance with international law abstain from hostile acts against the civilian population, including acts such as torture, intimidation, abduction, extortion and harassment.	LTTE and DSRSL (2002)
Sudan People’s Liberation Movement/ Army (SPLM/A)	Sudan, 1995	Humanitarian agreement (with Operation Lifeline Sudan)	We, the undersigned, enter into this agreement in a spirit of good faith and mutual cooperation in order to improve the delivery of humanitarian assistance to and protection of civilians in need.  In signing this agreement, we express our support for the following international humanitarian conventions and their principles, namely:  i. Convention on the Rights of the Child 1949  ii. Geneva Conventions of 1949 and the 1977 Protocols additional to the Geneva Conventions	SPLM and OLS (1995)
39 armed groups <sup>25</sup>	10 countries, 2000-09	Deed of Commitment	We, the [name of the armed group] [ . . . ] solemnly commit [ourselves] to the following terms:  1. To adhere to a total ban on anti-personnel mines. [ . . . ]  2. To cooperate in and undertake stockpile destruction, mine clearance, victim assistance [ . . . ]  3. To allow and cooperate in the monitoring and verification of our commitment [ . . . ]  4. To issue the necessary orders and directives [ . . . ]  5. To treat this commitment as one step or part of a broader commitment in principle to the ideal of humanitarian norms [ . . . ]	Geneva Call (n.d.a)

Sources: Bangerter (2009a); Geneva Call (2009)





The cover of an armed group's code of conduct. © ADS

*Bilateral agreements* can be negotiated between parties to a conflict—often an armed group and a government—specifically to address humanitarian norms. Among them, ‘special agreements’ focus exclusively on the implementation of the relevant provisions of the Geneva Conventions.<sup>26</sup> Some can also address human rights issues. Bilateral agreements are based on mutual consent, which can facilitate access and monitoring. They have been particularly difficult to achieve in practice, however, as governments are often reluctant to enter into any kind of agreement with their enemy when there are no clear prospects for peace (ICRC, 2008, p. 17).

Humanitarian commitments have also been included in a number of *peace or ceasefire accords*. Parties are more open to discussing humanitarian issues when they are already sitting at the negotiating table. If the peace agreement collapses, however, parties may no longer feel bound by the relevant humanitarian commitments. More-

over, the ability of humanitarian organizations to influence the development and content of peace agreements is limited in some cases, resulting in weak provisions on IHL or IHRL (Bongard, 2008b).

In some contexts, parties to conflict have signed *humanitarian agreements*, such as action plans or memorandums of understanding, with humanitarian actors. These agreements usually aim to facilitate humanitarian access to vulnerable populations and protect humanitarian personnel. They have helped clarify the framework of cooperation between humanitarian actors and armed groups and have at times included commitments to respect IHL and IHRL in conflict areas. A difficulty, however, has been a perception by critics—primarily concerned governments—that the signing of humanitarian agreements can confer legitimacy on armed groups.<sup>27</sup>

The Deed of Commitment banning anti-personnel mines is co-signed by the armed group, a humanitarian organization (Geneva Call), and a sub-state entity (the Republic and Canton of Geneva). It is a standard, ‘treaty-like’ document, meaning that all signatory armed groups commit to the same, internationally recognized and comprehensive, norms of the Anti-Personnel Mine Ban Convention. Importantly, it provides for monitoring by Geneva Call and other external actors. The fact that it is a standard document open for armed groups’ signature also comes with limitations: some *de facto* authorities—despite not being able to adhere to international treaties—have expressed reluctance to sign a document designed for ‘non-state’ armed groups, preferring instead to adopt corresponding legislation.<sup>28</sup>

Armed groups' *internal regulations* include codes of conduct,<sup>29</sup> penal or disciplinary codes,<sup>30</sup> and rules of engagement.<sup>31</sup> They define to a great extent an armed group's identity, structure, and procedures; respect for them is often critical to a group's survival. Humanitarian provisions contained within such regulations therefore have a fair chance of being taken seriously by commanders and the rank and file. These texts are also tailored to the particularities of the local situation (Clapham, 2006a, p. 512). The difficulty for humanitarian actors is that written regulations do not exist for all armed groups. Furthermore, groups often consider them confidential and are not necessarily willing to discuss their content with outsiders.

These different types of measures are not mutually exclusive and can actually complement one another. Measures of a public nature can create credible monitoring mechanisms involving external actors, while integrating humanitarian commitments into armed groups' internal regulations is also important for dissemination among and application by the troops.

### Supporting implementation

Although written commitments made by armed groups represent the most visible part of engagement, they are not always implemented. Armed groups often lack the capacity to implement everything they have agreed to. The Coalition to Stop the Use of Child Soldiers contends that practical assistance for the demobilization and reintegration of former child soldiers, including educational and vocational options, should be part of any approach aimed at engaging armed groups on the issue (Becker, 2003, pp. 2–3; Withers, 2007, p. 238). Implementation of the Deed of Commitment banning anti-personnel mines has generally accelerated when Geneva Call has been able to mobilize specialized agencies to support armed groups in carrying out technical obligations, such as stockpile destruction (Bongard, 2008b). If armed groups are serious about implementation, it is important that they follow through by, for example, educating and training members on the decisions taken, giving orders to enforce them, and imposing sanctions on offenders (Bangerter, forthcoming).

Armed groups often lack the capacity to implement their commitments.

### Monitoring compliance

Monitoring, in particular external monitoring, is crucial for ensuring that any organization's policies are carried out by subordinates (Policzer and Yankey-Wayne, 2009, p. 13). While monitoring armed groups' behaviour is challenging, humanitarian actors have made encouraging progress in this area. Geneva Call, for instance, relies on a three-pronged monitoring strategy. Armed groups are asked to report regularly on their implementation of and compliance with the Deed of Commitment banning anti-personnel mines. Geneva Call also relies on a network of partner organizations to follow developments on the ground. Lastly, Article 3 of the Deed of Commitment requires signatory groups to facilitate field missions deployed by Geneva Call. Significantly, no signatory armed group has ever refused to host a Geneva Call field mission, even following allegations of non-compliance (Geneva Call, 2007, pp. 25–31). UNICEF and the ICRC also stress the importance of monitoring, notably through follow-up visits (UNICEF, 2002, p. 14; ICRC, 2008, p. 13).

### The need for pragmatic approaches

Humanitarian actors generally warn against 'one size fits all' approaches and insist on the importance of gaining a thorough understanding of the armed groups and the context in which they operate prior to any engagement.<sup>32</sup> Armed groups differ greatly in terms of their size, objectives, structure, leadership, command capabilities, mode of



operation, resources, and constituencies, all of which can influence group behaviour. It is easier to engage groups with effective command and control structures, for instance, as any commitment made by leaders has a better chance of being transmitted to foot soldiers. For less structured armed groups, different approaches may be required, focusing on wider dissemination of humanitarian norms targeting as many factions or units as possible.<sup>35</sup>

Practitioners also argue for a pragmatic approach to ‘hard cases’ (Mc Hugh and Bessler, 2006, pp. 54–56). Not pursuing dialogue with an armed group because it does not immediately agree to abide to the highest international standards does not help advance the humanitarian agenda (Bangerter, 2008, p. 84). In the case of landmines, this has meant continuing to work with armed groups that refused to ban anti-personnel mines to identify ways to reduce the impact on civilians, including by restricting mine use and facilitating the clearance of areas of particular importance for the local population (Bongard, 2008b). Mobilizing armed groups’ constituencies, such as local communities or diasporas, can also help put additional pressure on group leaders to change their policies (Coalition to Stop the Use of Child Soldiers, 2006, pp. 13–14; UNICEF, 2002, p. 7).

### **Building support among states**

The attitude of concerned states towards engagement is particularly important. Concerned states can block access to armed

*Former child soldiers, demobilized under an agreement with the government, leave a Maoist camp in Nepal, January 2010. © Gopal Chitrakar/Reuters*

groups by imposing travel restrictions on their territory, obstructing humanitarian assistance in areas controlled by armed groups, and imposing sanctions on actors engaging armed groups (Thorne, 2007; Florquin and Decrey Warner, 2008). The Government of Ethiopia, for instance, expelled the ICRC from the Somali Regional State in July 2007 after accusing it of supporting the Ogaden National Liberation Front, despite ICRC assurances of independence and neutrality (ICRC, 2007).

It is therefore important for humanitarian actors engaging armed groups to inform concerned states and seek their cooperation whenever possible. Pursuant to common Article 3 of the Geneva Conventions, humanitarian engagement does not alter the legal status of armed groups, addressing a concern some states have with such interventions.<sup>34</sup> Furthermore, the UN Secretary-General has called on states to:

*support, or at least [ . . . ] not impede, efforts by humanitarian organizations to engage armed groups in order to seek improved protection for civilians—even those groups that are proscribed in some national legislation* (UNSC, 2009b, para. 45).

### The comparative advantages of different actors

States and international organizations may exercise strong leverage on armed groups, notably through their ability to provide needed assistance or impose sanctions. Concerned states may fear that such high-level engagement contributes to legitimizing the group's cause, however, and seek to place conditions that constrain such initiatives (Hofmann, 2006, pp. 397–98). As Security Council Resolution 1612 stresses:

*any dialogue [ . . . ] by United Nations entities with non-State armed groups in order to ensure protection for and access to children must be conducted in the context of peace processes where they exist and the cooperation framework between the United Nations and the concerned Government* (UNSC, 2005, para. 2d).

Although they have fewer 'carrots and sticks' to deploy, international NGOs may have more flexibility with the concerned government, partly because they can adopt a much lower (unpoliticized) profile (Hofmann, 2006, pp. 399–400). They generally have no stake in the situation apart from humanitarian concerns, increasing chances that armed groups will accept them as a neutral interlocutor. Local NGOs can also play a crucial role in engagement, notably due to their permanent presence in the field, access to armed groups, knowledge of the local context, and understanding of armed groups' internal dynamics. On the other hand, they may be perceived as partisan by the armed group or the concerned government and find their security endangered as a result.

Armed groups tend to accept international NGOs as neutral interlocutors.

## ARMED GROUPS, SMALL ARMS-RELATED THREATS, AND PREVENTIVE MEASURES

Recent progress achieved in the humanitarian engagement of armed groups has prompted analysts and practitioners to call for a greater examination of the feasibility of engaging armed groups on small arms issues.<sup>35</sup> Such dialogue would aim at ensuring that armed groups use, store, and manage small arms in ways that are consistent with IHL, IHRL, and other applicable standards.

This section outlines the different ways in which small arms held and used by armed groups can harm civilians living in situations of armed conflict. Relevant threats include the misuse of small arms by group members, safety

concerns linked with groups' arsenals, and the diversion of groups' weapons to other entities that can be expected to misuse them.

Based on a review of small arms measures adopted by armed groups (see Table 12.2), the section also discusses promising areas of engagement that can be pursued with armed groups towards preventing such indiscriminate effects and unnecessary harm. The majority of relevant commitments were found within armed groups' internal regulations, as opposed to measures or agreements adopted jointly with external actors. Most of the measures reviewed here were adopted by armed groups on their own engagement, reflecting the dearth of humanitarian initiatives in the small arms arena.

## Small arms misuse

### Prohibited weapons and ammunition

**Negligent use of indirect fire weapons puts civilians at risk.**

Small arms are not generally banned under international law. IHL only prohibits weapons that cannot distinguish between civilian and military targets, meaning that they are 'by nature indiscriminate' (Henckaerts and Doswald-Beck, 2005, p. 244). Anti-personnel mines are the only category of small arms<sup>36</sup> that fit this definition, however, with engagement in this area well under-way. Customary IHL also prohibits the use of weapons that are intended, or may be expected, to cause widespread, long-term, and severe damage to the natural environment (Henckaerts and Doswald-Beck, 2005, p. 153). Groups such as the Chin National Front in Myanmar have included a ban on arms with long-term environmental effects in their codes of conduct (see Table 12.2), but small arms do not fit within this category. Cases of armed groups using banned types of ammunition<sup>37</sup> are rare.<sup>38</sup>

Some armed groups may nevertheless be willing to renounce the use of specific types of small arms of particular concern, regardless of whether they are banned under international law. A Somali armed group, for instance, has indicated that it earlier renounced the use of surface-to-air missiles and surrendered such equipment to the international community for destruction in 2002.<sup>39</sup> Although not prohibited under IHL, surface-to-air missiles have generated international concern due to the threats they pose to civilian aviation (Small Arms Survey, 2004, ch. 3). Similarly, armed groups could be engaged on the use of other categories of small arms that pose significant threats to civilian populations, including certain types of improvised explosive devices<sup>40</sup> and anti-vehicle mines.<sup>41</sup>

### Use against civilians

Documentation on armed groups' use of small arms against civilians has sparked the greatest concern in the humanitarian community (AI, 2001). For some groups, 'targeting, terrorizing and displacing innocent civilians are their way of exerting pressure on the adverse party' (Policzer and Yankey-Wayne, 2009, p. 18). In other cases, negligent use of certain types of weapons leads to a failure to discriminate between civilian and military targets. Indirect fire weapons, such as mortars, and rocket-propelled grenades fired at high arc trajectory tend to harm civilians because the firer is often unable to see the fall of shot and anticipate its consequences.<sup>42</sup>

Such practice violates the rule of IHL that requires the parties to a conflict to distinguish between military and civilian targets and that 'prohibits making the civilian population as such, as well as individual civilians, the object of attack' (Henckaerts and Doswald-Beck, 2005, p. 5). Terrorizing civilians is also explicitly prohibited under IHL: 'Acts or threats of violence the primary purpose of which is to spread terror among the civilian population are prohibited' (p. 8). Furthermore, '[a]ll feasible precautions must be taken to avoid, and in any event to minimize, incidental loss of civilian life, injury to civilians and damage to civilian objects' (p. 51).

**Table 12.2 Weapon-related commitments made by armed groups**

Armed group	Country, date	Type of measure	Commitments	Source
African National Congress/ Umkhonto We Sizwe (ANC/MK)	South Africa, 1985	Internal regulation	<p>Rules and regulations covering the handling of weapons and explosives of our movement</p> <p>5. It is strictly forbidden to point a weapon, loaded or otherwise, at any person other than our enemy;</p> <p>7. Unauthorised exchange, barter or transfer of a weapon(s) is strictly forbidden.</p> <p>13. Safety measures must be observed when handling weapons and explosives.</p> <p>14. Authorised persons are not allowed to handle weapons under the influence of liquor.</p>	ANC/MK (1985)
Chin National Front (CNF)	Myanmar, n.d.	Internal regulation	31. The use of weapons and technologies that can damage the environment for a very long period of time must be avoided.	CNF (n.d.)
Communist Party of Nepal-Maoist (CPN-Maoist)	Nepal, 2006	Peace accord (with Government of Nepal)	<p>4.1.2 Weapons storage and control</p> <p>In the main [CPN-Maoist] cantonment sites the weapons and ammunition storage area will be secured by the following system: [ . . ]</p> <p>3. A single lock provided by the UN will secure each storage container. The key will be held by the designated main cantonment site commander.</p>	GoN and CPN-Maoist (2006)
Justice and Equality Movement (JEM) and Sudan Liberation Movement-Unity (SLM-Unity)	Sudan, 2008	Unilateral declaration	We recognize that placing military assets and personnel in close proximity to civilian areas increases the risk that civilians will be caught up in hostilities or even targeted. We will therefore continue our policy of maintaining a proper physical separation between our armed forces and the civilian population.	JEM and SLM-Unity (2008)
Karen National Liberation Army (KNLA)	Myanmar, n.d.	Internal regulation	<p>40. Narcotics and drugs or alcohol must not be used during the battle.</p> <p>50. All types of weapons, including guns and bullets, must be stored carefully and maintained well, and they must be used only when needed.</p> <p>51. KNLA military property must not be sold.</p> <p>52. All bullets provided must not be used unnecessarily or illegally.</p>	KNLA (n.d.)
National Democratic Front of the Philippines (NDFP)	Philippines, 1998	Bilateral agreement (with Government of the Philippines)	<p>Article 4</p> <p>4. Civilian population and civilians shall be treated as such and shall be distinguished from combatants and, together with their property, shall not be the object of attack. They shall likewise be protected against indiscriminate aerial bombardment, strafing, artillery fire, mortar fire, arson, bulldozing and other similar forms of destroying lives and property, from the use of explosives as well as the stockpiling near or in their midst.</p>	RoP and NDFP (1998)



Sudan People's Liberation Movement/ Army (SPLM/A)	Sudan, 2003	Internal regulation	Schedule 2.f. A member of the SPLA shall not consume alcohol in a public drinking place while he is on duty or in uniform or in possession of a weapon.	SPLA (2003)
Taliban	Afghanistan, 2006	Internal regulation	9. Taliban may not use Jihad equipment or property for personal ends. 10. Every Talib is accountable to his superiors in matters of money spending and equipment usage. 11. Mujahideen may not sell equipment, unless the provincial commander permits him to do so.	Taliban (2006)
Taliban	Afghanistan, 2009	Internal regulation	9 <sup>th</sup> Chapter Official Forbiddance: The previous campaign launched by Taliban for the recovery of arms through forceful measures in the name of Bait-ul-Maal will not be re-practiced. Arms can be taken with the willingness of the owner.	Taliban (2009)
Viet Cong	Vietnam, n.d.	Internal regulation	8. I swear to maintain and protect my weapons, ensuring they are never damaged or captured by the enemy.	Viet Cong (n.d.)
Zomi Re-Unification Organization (ZRO)	India, 1998	Internal regulation	Part I, Tribunal list 18. No ZRA [Zomi Re-Unification Army] cadres shall direct/point his/her weapons towards his/her comrades in time of stress [ . . . ] Part II, 5. Arms and Ammunition ii. Arms and ammunition shall be the sole responsibility of Battalion Commanders [ . . . ]. Any loss or misplacement shall be severely dealt with.	ZRO (1998)

Sources: Bangerter (2009a); Geneva Call (2009)

While it may appear unrealistic to expect groups that consistently engage in deliberate attacks against civilians to change their behaviour, some armed groups have taken measures towards that end. They include the African National Congress/Umkhonto We Sizwe (ANC/MK), the National Democratic Front of the Philippines, and the Zomi Re-Unification Organization (ZRO) (see Table 12.2). A number of armed groups have also made general commitments to discriminate between civilian and military targets without specific references to the use of arms (Bangerter, 2009a; Geneva Call, 2009).

Due to the strong legal basis provided by IHL, measures to prevent indiscriminate use of small arms should not be more controversial among armed groups than those related to general respect for IHL. Focusing on indiscriminate small arms use, in addition to general engagement on the principle of distinction, may also help armed groups better conceptualize IHL in the local context, as discussions on weapon-related matters are likely to resonate more concretely with fighters. The principal challenge therefore lies in persuading 'hard case' groups to renounce deliberate attacks on civilians. Groups that have weak command structures or are fragmented in various factions pose another challenge, although heightened attention to dissemination can ease implementation of agreed commitments in such cases.

## Policing activities

While the desirability or legality of the assumption of policing, justice, or other state-like functions by non-state entities—such as armed groups—is controversial, such situations do arise in practice (Sivakumaran, 2006; 2009; Somer, 2007). This is the case in areas where de facto authorities, such as the self-declared Republic of Somaliland, assume effective control over territory and civilian populations. In the Philippines, a 2002 agreement between the government and the Moro Islamic Liberation Front (MILF) even provided for collaboration and coordination between the two parties in pursuing criminal groups in Mindanao, the region where the MILF operates (GRP and MILF, 2002). In situations of active armed conflict, armed groups sometimes seek to respond to the emergence of armed bandits who are not associated with the conflict but take advantage of the surrounding chaos to loot and accumulate wealth through theft and harassment of civilians.<sup>43</sup>

In such contexts, international law enforcement instruments, such as the UN's *Basic Principles for the Use of Force and Firearms by Law Enforcement Officials*,<sup>44</sup> could prove useful in ensuring that armed groups respect basic human rights standards when performing policing functions.

Engagement on this issue can find traction with armed groups that have taken measures to police and protect civilians living within areas under their control or operations. Somaliland, for instance, has had its own police force since 1991 and received police training from Western agencies (NPIA, 2009). Somaliland authorities also collaborate with international NGOs in promoting the safer management of civilian-held arms stocks (see Box 12.3).

Yet, some concerned governments have strongly opposed the provision of policing or human rights training to armed group 'police' units. The government of Sri Lanka's harsh reaction to Western agencies providing training to members of the LTTE's 'Eelam police', even following the conclusion of a ceasefire agreement, is a case in point (DSRSL, 2007).

Some groups banned the handling of arms by fighters under the influence of alcohol.

## Small arms safety

### 'Accidental use'

Another category of threats and possible preventive measures relates to armed groups' accidental—that is, *unintended*—use of small arms against civilians. Such accidental use of small arms may be the result of a lack of basic training and a lack of capacity in the handling of small arms,<sup>45</sup> or the use of small arms under the influence of drugs or alcohol.

Assuming armed groups are bound, like states, by IHRL, it can be argued that accidental use constitutes a threat to the basic human right to life (UNGA, 1948, art. 3) and that armed groups should take necessary precautions against inflicting such harm.

As Table 12.2 illustrates, some armed groups have taken measures to prevent the accidental misuse of small arms. They include prohibiting the handling of firearms by 'unauthorized' persons who do not possess the necessary training. Measures taken by Malian rebels in the early 1990s, such as placing their assault rifles on single-shot mode while operating in civilian areas, can also contribute to safer use (Florquin and Pézard, 2005, pp. 55–57). Moreover, armed groups, such as the ANC/MK, KNLA, and SPLM/A, as well as armed communities in Somaliland, have banned the handling of weapons by fighters who are under the influence of drugs or alcohol (see Table 12.2 and Box 12.3).

Such measures can be effective with groups that have the capacity to train fighters in basic firearms safety principles. In other cases, however, implementation will be more difficult. External actors will generally not be able to train armed groups on such safe practices, as they risk being accused of offering assistance with military utility.



### Box 12.3 Community-based management of small arms in Somaliland

The Danish Demining Group (DDG)<sup>46</sup> initiated a community safety programme in Somaliland in 2008 to tackle some of the negative consequences of small arms proliferation. An estimated 74 per cent of all households in the region own firearms and low-level, clan-based conflicts are everyday occurrences.<sup>47</sup>

As weapons ownership and the need for self-protection are deeply engrained in Somali culture,<sup>48</sup> DDG did not try to disarm people but instead opted to facilitate and promote improved weapons management at the community level. The programme brought together community members to identify and develop solutions to their safety needs, specifically through the development of community safety plans.

Sheikh is among the communities that identified small arms as one of their safety problems.<sup>49</sup> An estimated 65 per cent of the households in Sheikh town own small arms, primarily for protection purposes (DDG, 2009). Community members perceived firearms as a threat because they were unregistered, there were no safe storage facilities, there was poor awareness of safe handling practices, and there was no record-keeping of incidents and victims. Relevant interventions identified by the community included training in conflict management and firearm safety, dissemination of information, provision of safe storage devices for firearms, and establishment of a small arms registration office.

DDG assisted Sheikh's residents by providing conflict management education to community members in order to discourage the use of armed violence and enable the peaceful settlement of minor conflicts over, for example, family disputes, water, or land. DDG also provided firearm owners and volunteer trainers with firearms safety education, including information on how to manage and store firearms safely. DDG's firearm safety messages in Somaliland included:

- Firearms safety is a way of thinking—you can decide to behave safely
- Never point the firearm at anything you do not want to hit
- What goes up must come down—never shoot up in the air
- A bullet can ricochet—do not shoot at hard surfaces or water
- Always keep your finger away from the trigger until you are ready to shoot
- Keep your firearm unloaded when you do not want to use it
- Always keep your firearm locked in a safe place
- Keep the magazine and ammunition locked separately from the firearm
- Always keep the key where nobody else can find it
- Do not allow other people to touch and play with your firearm
- Gunpowder and Khat<sup>50</sup> do not mix

DDG also helped the community produce and install safe storage devices for firearms in order to prevent theft by criminals and restrict access by children and others vulnerable to accidents. DDG installed 331 such devices in Sheikh town. Many firearm owners chose to have these safe storage devices installed in their homes. Others—mainly nomads—chose to have them installed in a storage room at a military facility on the outskirts of the town, where they kept their weapons when not needed to protect livestock.

DDG destroyed dangerous explosive remnants of war (including anti-personnel mines, mortar rounds, and grenades) that community members voluntarily handed in or that were found lying about the town. The organization also facilitated contacts with Somaliland authorities to establish firearm registration in Sheikh.

While it would be premature to draw definitive conclusions on the impact of the project, preliminary feedback from community members has been encouraging.<sup>51</sup> At a minimum, the DDG initiative highlights the possibilities for improved weapons storage and handling in a context in which classic weapons collection efforts would almost certainly fail for lack of community support.





Example of an AK-47 with a safe storage device produced with assistance from DDG, July 2009. © Pete Muller/DDG

### Depots as military targets

Although arms and ammunition ‘depots’ held by armed groups are insignificant in size on a global scale (FIREARMS), explosions do occur and therefore pose a significant risk to civilians living in their vicinity (see Table 12.3).

While the circumstances surrounding such explosions are rarely clear, reports suggest they can occur as a result of enemy attack or sabotage.<sup>52</sup> IHL recognizes the risks that the proximity of military objectives, such as arms depots, can pose to civilians: ‘Each party to the conflict must, to the extent feasible, avoid locating military objectives within or near densely populated areas’ and ‘[e]ach party to the conflict must, to the extent feasible, remove civilian persons and objects under its control from the vicinity of military objectives’ (Henckaerts and Dosweld-Beck, 2005, pp. 71–76).

Measures aimed at separating arms depots from civilian areas resonate with a number of armed groups, provided they have the physical space to implement such a separation. The JEM and SLM–Unity in Sudan, for instance, have committed to keeping their forces and arms stockpiles away from civilians in an effort to protect them from enemy attacks (see Table 12.2). The Polisario Front (Western Sahara) and the Movement of Nigeriens for Justice adopted similar policies.<sup>53</sup> The ANC/MK’s boxes of arms and ammunition were stored under the ground or in military camps located away from civilian dwellings.<sup>54</sup>

Some groups that formed to protect particular communities can be less enthusiastic about the removal of weapons from civilian areas. The People’s Army for the Restoration of Democracy (Armée Populaire pour la Restauration de la République et la Démocratie), for instance, is an alliance of self-defence militias created to protect villages from attacks by Central African state forces and road bandits.<sup>55</sup> Like many state defence and security forces that choose to store their weapons and ammunition in urban areas, such groups are likely to oppose separating their military material from civilian communities, arguing that arms actually represent a source of security and protection for civilians.

**Table 12.3 Examples of explosions of armed groups’ arms and ammunition depots**

Armed group	Date	Country	Location	Reported casualties	Source
Taliban	May 2000	Afghanistan	Kabul	None	BBC News (2000)
Taliban	July 2001	Afghanistan	Darulaman	n/a*	BBC News (2001)
Forces of warlord Gul Agha	June 2002	Afghanistan	Spin Boldak	Up to 30 dead, 70 injured	BBC News (2002)
Moqtada al-Sadr militia	June 2004	Iraq	Kufa	2 killed, more than 9 injured	ABC News (2004)
Unspecified local militia	May 2005	Afghanistan	Bajgah	28 killed, 13 injured	USDOS (2008)
SPLM/A	May 2006	Sudan	Juba	2 killed, 1 injured	<i>Sudan Tribune</i> (2006)
Hezbollah	July 2009	Lebanon	Khirbat Silim	None	UNSC (2009d, para. 6)
Hezbollah	October 2009	Lebanon	Tayr Filsî	Up to 5 dead	ynews.com (2009); Haaretz (2009)

Notes: \* n/a: not available. The causes of these explosions—accidental or deliberate—are often unclear, although the majority of cases appear to be accidental. The ‘armed group’ vs. ‘state’ status of some of these examples is not always clear-cut either. One example is Gul Agha, who is often labelled a ‘warlord’ although he also served as a regional governor in Afghanistan (BBC News, 2002).

### Accidental depot explosions

In recent years, accidental explosions of armed groups' ammunition depots have reportedly occurred in countries such as Afghanistan, Iraq, Lebanon, and Sudan, causing civilian casualties (see Table 12.3). Many more cases probably go unreported, especially in conflict settings that do not receive as much media attention.

Accidental explosions also constitute a threat to the basic human right to life. From a human rights perspective, it can therefore be argued that armed groups should take appropriate precautions to prevent such explosions from occurring. The Principles on the Prevention of Human Rights Violations Committed with Small Arms, adopted by the UN Human Rights Council Sub-Commission on the Promotion and Protection of Human Rights, cast the 'proper storage and management of small arms, including ammunition' in human rights terms (UNHRC, 2006, p. 8, para. 4). International technical standards for the safe management and storage of small arms ammunition provide technical guidance that can also help reduce the dangers posed by armed groups' weapon depots (SEESAC, 2007; UNGA, 2008, p. 2).

A number of armed groups have referred to aspects of stockpile management in formal measures, including the ANC/MK, KNLA, Taliban, Viet Cong, and ZRO (see Table 12.2). While such measures seem to be primarily motivated by military efficiency and the need to protect valuable weaponry, evidence indicates that armed groups care about arms management. DDG's experience in Somaliland also shows that when armed communities are reluctant to disarm, they may nevertheless be willing to collaborate with NGOs in safeguarding their weapons to improve community safety (see Box 12.3).

Promoting basic safety measures, such as respecting a minimum safety distance between depots and civilian dwellings, can reduce the risk of civilian casualties caused by the presence of arms depots or caches. Taking such engagement further by providing armed groups with training on safe weapons and ammunition stockpile management is politically sensitive in most contexts, however. There is, in fact, a real risk that some groups would use such



Ammunition depot in Puntland, Somalia. Items were destroyed in 2009 with support from the Mines Advisory Group. © Geneva Call

training to increase military efficiency rather than meet humanitarian objectives. For groups such as the Lord's Resistance Army in Uganda, for instance, strict arms and ammunition management procedures<sup>56</sup> were instrumental to the perpetration of well-documented IHL and human rights abuses (Bevan, 2005, pp. 36–42; HRW, 2005, pp. 15–23). Engagement of armed groups on safe arms management and use would therefore need to be linked with broader commitments to humanitarian principles, such as a ban on the indiscriminate use of small arms.

**Armed groups  
sometimes show  
unexpected  
transparency on  
arms holdings.**

Humanitarian actors' ability to monitor safety measures taken by armed groups may appear limited at first sight, but recent experience reveals that armed groups can sometimes show unexpected transparency with respect to their arms holdings. The UN Group of Experts monitoring the arms embargo on Côte d'Ivoire, for instance, recently reported being able to inspect arms stockpiles held by the rebel Forces Nouvelles coalition—in some cases more easily than government facilities (UNSC, 2009c, paras. 46–58). Meanwhile, the Mines Advisory Group reported facilitating the destruction of 12 tonnes of unstable ammunition in Galcaio, a city controlled by the semi-autonomous region of Puntland in northern Somalia (MAG, 2009). The 2006 agreement between the CPN–Maoist and the Nepalese army also illustrates how armed groups can agree to international organizations monitoring their stocks of weapons (see Table 12.2). Additional examples can be drawn from the anti-personnel mine ban experience, with some armed groups giving humanitarian actors unprecedented access to their arms depots.<sup>57</sup>

### **Small arms transfers and diversion**

Measures to prevent the indiscriminate effects and unnecessary harm caused by small arms will be of limited use if the armed groups implementing them actively transfer weapons to other entities or individuals who do not adhere to humanitarian standards. Furthermore, if groups' arsenals are not properly accounted for and safeguarded, they become vulnerable to theft by, or diversion to, such actors.

In the same way that states must not encourage violations of IHL and exert their influence, to the degree possible, to stop violations of IHL (Henckaerts and Doswald-Beck, 2005, p. 509), armed groups could be encouraged to take measures to ensure that they do not, deliberately or inadvertently, provide arms to other entities or groups if there is a significant risk that they will use them to commit violations of IHL. The same measures could be encouraged in relation to respect for human rights.

### **Deliberate transfers to 'misusers'**

Armed groups place great value on their weaponry. Their very survival depends to a great extent on the arms they are able to procure and maintain, in often challenging situations. As a result, armed groups' internal regulations, such as the Viet Cong's 'Oath of Honour', often make references to the combatant's duty to maintain and keep weapons away from enemy hands (see Table 12.2). Another example is the Movement of Central African Liberators (Mouvement des Libérateurs Centrafricains pour la Justice, MLCJ), whose members are required to make an oral oath on the Koran or Bible to refrain from carrying out three prohibited activities: raping, looting, and selling the group's weapons.<sup>58</sup> Armed groups such as the ANC/MK, KNLA, SPLM/A, Taliban, and ZRO (see Table 12.2) have also adopted measures restricting or prohibiting the transfer of arms by their members.

Such measures generally do not make references to IHL or human rights principles, however. A significant challenge for those seeking to engage armed groups on this issue lies, therefore, in persuading these groups of the impact that unrestrained arms transfers and proliferation can have on civilians and in convincing them to articulate related commitments towards that end.

## Diversion

As is the case with state and civilian-held stocks (Small Arms Survey, 2008, pp. 43–75), armed groups' small arms and ammunition require comprehensive controls, regardless of where they are used or stored, if the unintended diversion of their arms stocks to external actors is to be prevented. Diversion of armed groups' stocks can be the result of their unauthorized sale by corrupt members or theft by outsiders.

Although it is difficult to ascertain the specific procedures adopted by armed groups to safeguard their stockpiles or depots, testimonies by former commanders sometimes point to stricter controls than what is often commonly assumed. The ANC/MK's military camps, for instance, comprised an armoury that was locked, inventoried, and managed by a commander in charge. Fighters returning from duty systematically had to account for the ammunition they consumed or face punishment.<sup>59</sup> Similar procedures were reported by former group commanders in Mali (Florquin and Pézard, 2005, p. 54) and Senegal.<sup>60</sup>

Engaging armed groups on this issue is particularly challenging, as groups do not always have the means and technical expertise to safeguard arms and ammunition stocks according to international standards. Assisting armed groups in doing so would be extremely difficult politically, as such support may be perceived by states as the provision of military assistance, while armed groups may reject it as espionage. Engagement opportunities in this area therefore seem limited to raising awareness among armed groups of the negative humanitarian impacts of unchecked—and potentially proliferating—arms stocks.

Groups do not always have the expertise to safeguard stocks according to standards.

## CONCLUSION

The small arms held by armed groups pose real and diverse threats to civilians living in situations of armed conflict. These include the use by armed groups of small arms against civilians, safety concerns linked with groups' arsenals, and the diversion of group weapons to other entities that can be expected to misuse them.

Drawing upon lessons learned as a result of efforts to engage armed groups in other areas, such as anti-personnel mines and the protection of children, the chapter has sketched out several areas for potential engagement in the small arms domain. These include measures to prohibit small arms misuse by group members, safety precautions to prevent weapons-related accidents, and commitments to refrain from transferring arms to criminals and other 'misusers'.

Among the most promising opportunities for engagement are prohibitions, and other precautionary measures, to curb the indiscriminate use of small arms by group members. Prohibitions and restrictions on the use of specific weapons of concern—such as surface-to-air missiles and indirect fire weapons—also have potential. Equally relevant are basic measures to reduce the threats to civilians caused by armed groups' arms depots. Keeping a minimum distance between depots and civilian dwellings can help reduce both the risks of explosion caused by enemy attack as well as those triggered accidentally by unstable ammunition. Recent experience shows that external monitoring of such measures is possible.

Other engagement opportunities may only be appropriate, and feasible, in exceptional circumstances. Promoting respect for international policing standards by armed groups, although implemented with de facto authorities such as Somaliland, can draw severe objection from concerned states. Providing technical training to armed groups to promote safe firearm handling and secure storage practices, although useful in reducing accidents and further arms

proliferation, is likely to be opposed by concerned states on the grounds that it amounts to military training. In addition, armed groups are most often secretive about their arms management procedures, given the potential military utility of such information for the enemy. It appears, therefore, that engagement on these issues will have to be limited to raising awareness of relevant technical and human rights standards, with little opportunity for follow-up.

As experience has shown, humanitarian actors can play an important role in influencing armed groups' behaviour during conflict. These efforts, however, have thus far largely ignored the threats posed by armed groups' small arms and ammunition arsenals. The UN Secretary-General's May 2009 report on the protection of civilians in armed conflict created strong international momentum in favour of the humanitarian engagement of armed groups. The time seems ripe, therefore, for the international community to seek greater engagement with armed groups on the small arms issue. ■

## LIST OF ABBREVIATIONS

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ANC/MK	African National Congress/Umkhonto We Sizwe
CNF	Chin National Front
CPN–Maoist	Communist Party of Nepal–Maoist
DDG	Danish Demining Group
HRC	Haitian Red Cross
ICRC	International Committee of the Red Cross
IHL	International humanitarian law
IHRL	International human rights law
JEM	Justice and Equality Movement
KNLA	Karen National Liberation Army
MILF	Moro Islamic Liberation Front
MFDC	Mouvement des Forces Démocratiques de Casamance
MLCJ	Mouvement des Libérateurs Centrafricains pour la Justice
MNJ	Mouvement des Nigériens pour la Justice
NGO	Non-governmental organization
PKK	Kurdistan Workers' Party
SLM–Unity	Sudan Liberation Movement–Unity
SPLM/A	Sudan People's Liberation Movement/Army
ZRO	Zomi Re-Unification Organization

## ENDNOTES

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- 1 In its 2009 *Yearbook*, the Stockholm International Peace Research Institute reports that, of the 16 major armed conflicts that were waged in 2008, all were intra-state, meaning they involved one or more non-state armed groups. For the fifth year running, no major inter-state conflict was active in 2008 (SIPRI, 2009, app. 2A).

- 2 The chapter recognizes that organizations and experts working on or with armed groups prefer to refer to such entities as 'armed non-state actors', 'non-state armed groups', or 'organized armed groups' (see Bruderlein, 2000, p. 8; Geneva Call and PSIO, 2005, p. 10; ICHRP, 2000, p. 5; Sivakumaran, 2006, p. 369; and Zegveld, 2002, p. 1).
- 3 For purposes of this chapter, armed insurgency movements are organizations with basic command and control structures that use force to achieve political or quasi-political objectives and are not under state control. This definition is adapted from Geneva Call and PSIO (2005, p. 10).
- 4 For instance, the self-declared Republics of Abkhazia and Somaliland.
- 5 A partial, and to date unrepeated, exception was the participation of 11 national liberation movements as observers in the diplomatic conference convened by Switzerland in 1974–77, which adopted the 1977 Protocols to the Geneva Conventions (Sassòli, 2003, p. 7).
- 6 See Somer (2007, pp. 660–61).
- 7 *Opinio juris* refers to the belief that an action was required or permitted by law.
- 8 See, for example, Security Council Resolution 1479, in which the Council '*emphasizes again* the need to bring to justice those responsible for the serious violations of human rights and international humanitarian law that have taken place in Côte d'Ivoire since 19 September 2002, and *reiterates* its demand that all Ivorian parties take all the necessary measures to prevent further violations of human rights and international humanitarian law' (UNSC, 2003, para. 8).
- 9 See, for instance, Fleck (2003, p. 79); Tomushat (2004, p. 586); and Clapham (2006b, pp. 271–316).
- 10 These include the UN High Commissioner for Human Rights (UNECOSOC, 2006a, paras. 45–58) and the UN Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions (UNECOSOC, 2006b, paras. 25–27). The human rights organizations Amnesty International and Human Rights Watch regularly report on abuses committed by armed groups and demand that they respect human rights. See, for instance, AI (2002) and HRW (2009).
- 11 In this chapter, the term 'humanitarian norm' is used broadly to refer to the norms of IHL and IHRL.
- 12 Adapted from Ricigliano (2005, p. 3).
- 13 See Article 3 common to all four of the Geneva Conventions of 12 August 1949 at ICRC (2009).
- 14 Calls for more systematic engagement of armed groups on issues such as forced displacement (Zeender, 2008, pp. 104–06) and torture (REDRESS, 2006) should be noted here.
- 15 As highlighted by the UN Secretary-General (UNSC, 2009b, paras. 41–43).
- 16 Author correspondence with Olivier Bangerter, ICRC, 25 January 2010.
- 17 The author of this box works for the ICRC as adviser for dialogue with armed groups. Sources for this box are a number of unpublished ICRC reports and evaluations.
- 18 Information taken from Geneva Call (2007) and Bongard (2008a; 2008b), with updated figures provided by Geneva Call as of March 2010.
- 19 Burundi, India, Iran, Iraq, Myanmar, the Philippines, Somalia, Sudan, Turkey, and Western Sahara.
- 20 Both IHL and IHRL provide special protection for children in situations of armed conflict, including a prohibition on the recruitment of children and their use in hostilities and children's right and access to education. See ICRC (n.d.).
- 21 In contrast with humanitarian engagement as defined in this chapter, the UN Security Council approach is coercive in nature. Resolution 1612 created a monitoring and reporting system for the naming and listing of armed groups responsible for violations of children's rights (UNSC, 2005, para. 3). In addition, the Security Council threatened to impose targeted sanctions—such as arms embargoes—on parties to conflicts that violate the rights and protection of children in armed conflict (para. 9).
- 22 This section draws heavily from Bongard (2008b).
- 23 For further analysis on these different tools, see Bangerter (2008, pp. 82–83); Bongard (2008b); and ICRC (2008, pp. 16–31).
- 24 See Bangerter (2008, pp. 82–83); Bongard (2008b); Coalition to Stop the Use of Child Soldiers (2006, p. 5); Becker (2003, p. 2); and Withers (2007, p. 235).
- 25 For the list of signatory armed groups, see Geneva Call (n.d.b).
- 26 Common Article 3 of the Geneva Conventions encourages the conclusion of such agreements between parties to non-international armed conflicts.
- 27 See, for instance, the analysis of the 1995 Agreement on Ground Rules by the SPLM and the Operation Lifeline Sudan consortium of humanitarian actors in Sudan (Bradbury, Leader, and Mackintosh, 2007, p. 7).
- 28 Such was the case with the self-declared Republic of Somaliland, for instance. See Bongard (2008b).



- 29 Codes of conduct can be defined as the core set of rules an organization expects its members to respect under all circumstances. Definition provided by Olivier Bangerter.
- 30 Penal or disciplinary codes are usually lengthier than codes of conduct and include more detailed definitions of prohibited conduct and associated punishments.
- 31 Rules of engagement aim to 'assist in the delineation of the circumstances and limitations within which military forces may be employed to achieve their objectives' (IIHL, 2009, p. 1). They are usually considered highly confidential, including those adopted by governmental armed forces.
- 32 See Bongard (2008b); ICRC (2008, p. 13); Mc Hugh and Bessler (2006, pp. 16–21); UNICEF (2002, pp. 10–11).
- 33 This has been Geneva Call's approach towards different factions of the Movement of Democratic Forces of Casamance (Mouvement des Forces Démocratiques de Casamance, MFDC) in Senegal, for instance (Geneva Call, 2008, p. 14).
- 34 See Article 3 common to all four of the Geneva Conventions of 12 August 1949 at ICRC (2009).
- 35 See Capie (2004, pp. 11–12); Florquin and Decrey Warner (2008, pp. 21–22); Florquin, Lyng, and Ljørring Pedersen (2009); Policzer and Yankey-Wayne (2009, pp. 18–19); and Small Arms Survey (2009, p. 182, box 5.4).
- 36 Anti-personnel mines are included in the 1997 UN Panel of Governmental Experts on Small Arms definition—or list—of small arms and light weapons (UNGA, 1997, para. 26).
- 37 IHL prohibits the use of expanding ('dum-dum') bullets as well as the anti-personnel use of exploding bullets due to the superfluous injury and unnecessary suffering they cause to victims (Henckaerts and Doswald-Beck, 2005, pp. 268, 272).
- 38 Reports suggest that warring parties used exploding bullets during the 2004 conflict in Haiti, for instance (Doctors without Borders, 2005).
- 39 Response to Geneva Call questionnaire from Hussein Farah Aideed, United Somali Congress/Somali National Alliance, 18 June 2009.
- 40 The use of 'socket bombs' by the Communist Party of Nepal–Maoist in Nepal, for instance, had significant humanitarian impacts. Socket bombs are improvised hand grenades made out of galvanized pipe sockets. They have a high failure rate and therefore pose significant risks to civilians after combat as unexploded ordnance (ICBL, 2006, p. 1024).
- 41 In discussions with Geneva Call in 2003 in New Site, Southern Sudan, some Sudan People's Liberation Army officials expressed interest in banning anti-vehicle mines.
- 42 A documented case of indiscriminate mortar attack is the 2003 shelling of Monrovia by the group Liberians United for Reconciliation and Democracy (HRW, 2003).
- 43 Although the Movement of Nigeriens for Justice (Mouvement des Nigériens pour la Justice, MNJ) did not possess its own police force, it committed publicly to fighting 'bandits who try to take advantage of the conflict to attack civilians' (MNJ, 2008).
- 44 See Control Arms (2004).
- 45 One documented example is the Liberians United for Reconciliation and Democracy's July 2003 shelling of Monrovia. Analysts have argued that the fighters' lack of training in mortar use was partially responsible for the heavy toll on civilians (Small Arms Survey, 2006, p. 257).
- 46 DDG is the humanitarian mine action unit of the Danish Refugee Council.
- 47 In a nationwide household survey on community safety and small arms conducted by DDG from September 2008 to April 2009, 74 per cent of 2,846 respondents indicated that someone in their household owned at least one firearm. The actual number may be higher, however, as certain respondents in such surveys are typically afraid of admitting to firearms ownership. Seventy-nine per cent of DDG survey respondents indicated that disputes occurred in their communities (DDG and Small Arms Survey, 2009).
- 48 Fifty-eight per cent of the respondents in the abovementioned survey cited protection-related reasons (protection against other clans, gangs/criminals/mentally ill people or wildlife, and protection of property and village) as the main reasons for firearm ownership (DDG and Small Arms Survey, 2009).
- 49 Sheikh district is located in the region of Sahil, about 135 km east-north-east of Somaliland's capital, Hargeisa. Sheikh town has an estimated population of 1,100 households divided between the clans of Muse Abdalle and Esse Muse.
- 50 Khat, or qat, is a plant whose leaves are chewed fresh for a stimulant effect.
- 51 Preliminary feedback received from community members suggests DDG's assistance has contributed to improved community safety in Sheikh (DDG interview with the vice-chairman of the Sheikh management committee, Sheikh town, Somaliland, 2 August 2009).
- 52 See, for instance, *Nation* (1995); ABC News (2004); and *Sudan Tribune* (2006).
- 53 Response to Geneva Call questionnaire by a representative of the Polisario Front, 17 June 2009; response to Geneva Call questionnaire by Ahmed Akoli, Secretary General, MNJ Political Cell, 16 July 2009.

- 54 Confidential Geneva Call interview with former ANC/MK commander, Pretoria, 15 January 2010.
- 55 Confidential Geneva Call interviews with knowledgeable sources, Bangui, 28 May and 4 June 2009.
- 56 Measures included limits on the amount of ammunition fighters could carry and tight controls over the group's arms caches.
- 57 Following allegations by the UN Monitoring Group of a transfer of 180 anti-personnel mines from Ethiopia to the Puntland authorities, for instance, the latter—having signed the Deed of Commitment—provided Geneva Call with unprecedented access to arms stockpiles in several military camps cited in the accusations. No anti-personnel mines were found and, significantly, Puntland proceeded with the destruction of anti-personnel mines and other dangerous items it had declared to be in its possession prior to the publication of the UN allegations (Geneva Call, 2007, p. 28; Geneva Call, MAG, and PMAC, 2008). In contrast, attempts to obtain clarification on the same allegations from the Ethiopian government, which is a party to the Anti-Personnel Mine Ban Convention, were unsuccessful (ICBL, 2008, p. 1005).
- 58 Geneva Call interview with Abakar Sabone, president, MLCJ, Bangui, 4 June 2009.
- 59 Interview by Noel Stott of two former ANC/MK combatants, Cape Town, August and September 2009.
- 60 Geneva Call interview with a former base commander of the MFDC, Ziguinchor, 28 October 2009.

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