



## APPEL DE GENÈVE GENEVA CALL

### GENEVA CALL'S EXPERIENCE ENGAGING ARMED NON-STATE ACTORS ON IMPROVISED EXPLOSIVE DEVICES AND EXPLOSIVE REMNANTS OF WAR

Geneva, Switzerland, 8 April 2011

*In the context of discussions on preventive measures to protect civilians during armed conflict, and at the request of the Coordinator on Improvised Explosive Devices (IEDs) of Amended Protocol II (APII) of the Convention on Conventional Weapons (CCW), and the Coordinator on Generic Preventive Measures of Protocol V of the CCW, an informal side-event was arranged during the Group of Experts meetings so that Geneva Call could share its experiences in engaging armed non-State actors (ANSAs) on IEDs and Explosive Remnants of War (ERW).*

#### **INTRODUCTION**

The Coordinators noted the timeliness of the event, specifically in light of the threat to Libyan civilians posed by weapons contamination, including the serious problem faced by unrestricted access to ERW, as well as unguarded and unsecured stockpiles and weapon stores. A key concern is that the ERW have been accessed by ANSAs. The Group of Experts has so far rightly focused on preventing IED attacks in the first place. Experience shows that it is now relevant to think beyond prevention and consider the problem once ordnance has fallen into the hands of ANSAs.

Under the CCW, all parties to the conflict—including ANSAs—must take concrete measures to avoid that civilians become victims of IEDs. It is the way in which IEDs are used, rather than the improvised nature of the devices that raises humanitarian concerns. Constantly evolving IED designs show that ANSAs are finding ways to access components. Geneva Call's perspective is to prevent impact on civilians through changing the behaviour of ANSAs. This approach is therefore relevant to the work of the Group of Experts. The Report of the Secretary-General on the protection of civilians, notes that all parties to armed

conflict must comply with international humanitarian law (IHL), and that it is therefore important to enhance compliance by ANSAs.

Before handing the floor to Geneva Call, the coordinators noted that especially for States, engagement with ANSAs could be challenging; engagement of ANSAs may not be possible at all if the ANSA is not willing to comply with the principles of IHL; and, the following presentation and discussion would not focus on any specific region or ANSA, rather on the humanitarian impact of ANSA use of IEDs.

#### **PRESENTATION SUMMARY**

Geneva Call has over a decade of experience in sustained dialogue with ANSAs on humanitarian norms towards the protection of civilians during armed conflict. One of several thematic approaches<sup>1</sup> that Geneva Call engages with ANSAs on is the ban on victim-activated anti-personnel (AP) mines, whether factory-made or improvised. Geneva Call has extensive experience working with ANSAs on IEDs and ERW and at the time of the presentation has obtained 41 signatories to its

<sup>1</sup> Other thematics include the promotion of IHL and International Human Rights Law, the protection of children during armed conflict, and the prohibition of sexual violence in conflict.



Improvised AP mines used by ANSAs.

*Deed of Commitment for Adherence to a Total Ban on Anti-Personnel Mines and for Cooperation in Mine Action.* Geneva Call monitors and supports implementation of the *Deed* once it is signed. A further 20 ANSAs are currently being engaged by the organization on the landmine issue.

Most ANSAs produce and deploy improvised AP mines. Components vary greatly depending on what is available. Casings can be made using bamboo, glass bottles, soap containers, and so forth, while the explosives used are often purchased or stolen from commercial sources, recycled from abandoned ordnance, or looted. Often, these devices have very little metal content, and are therefore difficult to detect using standard metal detectors. Battery-powered IEDs have a finite lifespan, and therefore function as victim-activated AP mines only as long as the battery provides enough electrical current to detonate the device. However, these devices can remain dangerous after the battery has 'died', as may be the case with any explosive device.

When ANSAs are reluctant or not yet ready to ban AP mines, Geneva Call encourages them to make incremental improvements in their policy and practice using as a starting point customary IHL and the norms outlined in the CCW APII. Geneva Call also advocates for facilitation and cooperation in mine action. As a result of these efforts, some ANSAs have drafted mine use guidelines, or undertaken to map, mark and clear mined areas in order to protect civilians.

The presence of ERW, which includes unexploded ordnance and Abandoned Ordnance, in ANSA-controlled areas can pose a significant threat to local communities, as well as to post-conflict humanitarian assistance efforts. ERW is left on the battlefield. Ordnance is looted from armouries and store rooms by ANSAs and also by members of the public. ANSAs have also been known to leave ordnance behind wherever they were manufacturing IEDs (for example in schools and in homes). ERW is rarely cleared, collected or destroyed, often because there is no clear structure or authority to deal with it.

One of the greatest risks posed to civilians is the management by ANSAs of their stockpiles of explosive devices and related material. Stockpiles containing 'old' and unstable explosive ordnance may be stored close to population centres where potential explosions could severely injure civilians. There is generally a lack of ordnance disposal capacity among ANSAs meaning that large amounts are stored in one place. Finally, there is insufficient or no security. When left unguarded, items can be stolen and explosive materials taken and recycled for reuse. The problem of safe storage is compounded further by the fact that individuals also store weapons and ordnance in their homes.

Geneva Call does not restrict its activities to victim-activated AP mines, especially if there are other issues of explosive weapons management and use that are putting civilian populations at risk. In such cases, Geneva Call will advocate that ANSAs with qualified agencies carry out clearance and ordnance

disposal MRE, and marking, and the relocation of stockpiles away from civilian areas.

It is important to remember that civilians in ANSA-controlled or -influenced areas have the same rights to assistance and security as civilians who are not living under the control or influence of ANSAs. Geneva Call's experience is that in reality the funding and political will to implement mine action in conflict areas is lacking. Notwithstanding a natural reluctance by donors and other actors to fund operations where an AP mine ban is not in place, it is a humanitarian imperative – and not a political issue - to seek to protect civilians whatever the circumstances.

Geneva Call can face numerous challenges in carrying out its humanitarian purpose:

- The lack of access to affected areas for Geneva Call to engage ANSAs, as well as for mine action agencies. This can be due to Government restrictions or a lack of security;
- ANSAs' lack of knowledge and capacity to implement mine action according to international standards with the right equipment, which in turn can lead to more accidents. In addition, the use of clearance methods may also be damaging to the environment;
- Few mine action agencies operate in ANSA areas, which may also mean that civilians do the dangerous clearance work themselves without appropriate training, and as a result store munitions in private



ERW contamination near villages in Africa.



Indigenous people collecting ERW from their communities in a very dangerous way.

homes;

- There is a general lack of resources for mine action agencies working in ANSA areas. This means that rapid and discreet stockpile destruction is not possible when an ANSA is willing to allow stocks to be destroyed. The delay in turn can lead to recycling of explosives and weapons if stocks change hands;
- ANSAs often do not keep inventories, and sometimes do not have clear knowledge of where ordnance is stored. Unsafe storage methods can put the civilian population at risk. It is well documented that civilians will report dangerous items when they know that something practical will be done about the threat. Greater presence of mine action agencies operating in affected areas may therefore encourage better information flow; and,
- In some cases, civilians have been targeted by both Governments and ANSAs when wishing to report the location of mines and ordnance for clearance.

Geneva Call therefore offers the following set of recommendations for consideration by High Contracting Parties of the CCW that could help improve the situation:

- Ensure guidelines and best practices developed on ERW and IEDs are applicable to all parties to conflict;
- Support the engagement of ANSAs by specialized organizations, specifically by providing funding and access on the basis



ANSAs clearing and destroying AP mines without proper international safety or environmental standards.

that engaging ANSAs to enhance the protection of civilians is a humanitarian activity; and,

- Increase support for mine action carried out during conflict, including in ANSA-controlled and -influenced areas.

### DISCUSSION SUMMARY

*Partnerships* - One Government representative noted that civil society actors are vital partners in advancing processes, including the CCW, in terms of implementation on the ground, and suggested that all partners could benefit from greater coordination and networking in Geneva amongst NGOs that undertake this work.

*Principles of engagement with ANSAs* - Another representative asked about Geneva Call's principles of engagement with ANSAs.

Geneva Call explained its principles of transparency and neutrality, and that it always informs concerned States of its decision to start work with a particular ANSA. It explained how prior to any engagement, it establishes a profile of the ANSA, taking into consideration the chain of command, its sensitivity to the need to protect civilians, and the likelihood of changing attitudes and behaviours. Signing the *Deed of Commitment* is also an agreement by the group to consider a broader approach to the rights of civilians, and does not confer any legitimacy or status on the group. This point is also clearly stated in the *Deed of Commitment* and similar in scope to Common Article 3 to the Geneva Conventions. Finally, Geneva Call does not permit ANSAs to make use of its engagement for political purposes. Examples of Geneva Call's work with different ANSAs can be found on [www.genevacall.org](http://www.genevacall.org) and in the organization's annual reports.

*Best practice stockpile management* - Another Government stated that it is firmly convinced that civilian populations living in areas controlled by ANSAs have the same rights as civilians in State-controlled areas. In regards to the accountability of ANSAs in dealing with UXO and stockpiles, the representative thought that best practice guidelines would be a useful approach, and noted that it would then be the responsibility of the State and the ANSA to apply them according to conditions and resources at their disposal.

*Verification in case of violation* - Geneva Call explained that five allegations of violation of the *Deed of Commitment* banning AP mines had been made. Geneva Call naturally requires the State party to agree to field verification as well as the ANSA. In two cases, States did not give permission and in two cases, Geneva Call conducted a field verification mission and found, in one case that the alleged violation had not taken place; and in the second case that the evidence was not conclusive. Nevertheless, Geneva Call provided recommendations for the ANSA in the latter case including additional training on its obligations under the *Deed of Commitment*. In the case where Geneva Call is denied access and yet where there are allegations of violation of a *Deed of Commitment* by an ANSA, Geneva Call would state that such allegations are unverified and unconfirmed.

The *Deed of Commitment* states that the ANSA should consider sanctions for violations. It is however not for Geneva Call to make the decisions for the ANSAs about what sanctions to impose.

*Criteria and prioritization* - Another Government asked what criteria Geneva Call used to decide which ANSA to engage and how to determine the priority for

engagement? What does the organization do in cases where States refuse access?

Geneva Call monitors new and existing conflicts, and also sometimes receives a request from the ANSA itself. Geneva Call firstly creates a profile of the conflict and of the ANSA, reviews the objectives of the group – political or purely financial – and its chain of command, and sets priorities based on the impact of the ANSA’s actions on civilians before deciding whether to go forward. There are also other matters to be considered, for example access and human and financial resources. When States refuse access, Geneva

Call needs to consider the question of sustainability in the context of a long-term conflict. Some ANSAs have contacts with diaspora in Europe and elsewhere, so engagement may also be possible through this avenue. In some cases, a Government allows Geneva Call to work in the country or region, but not to engage directly with the ANSA. In such cases, Geneva Call can work with local communities to seek to ensure that the message is brought to the ANSAs through their constituencies.

### **CONCLUSION**

In conclusion, the Coordinators noted that the format of the meeting had been useful and had inspired a good and fruitful exchange of views. It was also useful to show that there is more than one approach to the problem of compliance with IHL, and that, as this meeting demonstrated, pragmatic and incremental steps can be taken via NGOs.

### **ATTENDANCE**

Geneva Call is grateful to the approximately 70 participants who attended the meeting, and took part in discussions and questions, representing more than 35 States and observers.



Geneva Call and a local partner discuss the landmine issue with an ANSA in north Africa.

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