Engaging with Armed non-State Actors in the Broader Middle East on the Protection of Civilians

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Conference Report
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Photos: IRIN News www.irinnews.org, Mine Detection Center (Afghanistan) and Geneva Call. Cover photo: Girl in Mazrak IDP camp, Yemen.
Conference Background

Armed conflicts continue across much of the Middle East today. As in most on-going conflicts around the world, armed non-State actors (ANSAs) are fighting Government forces or other ANSAs. This is the case in a number of Middle Eastern states, including Afghanistan, Yemen, Lebanon and Iraq. In the past year alone, new conflicts have emerged in Libya and Syria.

The quantitative research that exists on the subject of ANSAs in the region is, at best, insufficient. Whilst the broader region is home to armed groups of some significance, little effort has been made to comprehensively address engagement with them in regards to their responsibilities under international law. Worldwide, numerous precedents exist to show that engagement with ANSAs on their international obligations under International Humanitarian Law (IHL) and International Human Rights Law (IHRL) has been successfully undertaken. Such engagement has been largely carried out through complementary approaches by organizations such as the International Committee of the Red Cross (ICRC) and Geneva Call.

IHL provides no political legitimacy to belligerent parties. It aims to limit the humanitarian impact of armed conflict, primarily by protecting those who do not, or no longer, participate in hostilities. IHL also provides protection for those actively engaged in the conflict. This is achieved, for instance, through the prohibition of the use of certain weapons. It does not justify the reasons behind the military activities of parties to the conflict.

As noted by the President of the Permanent Peace Movement, co-organizer of the Conference, Fadi Abi Allam, “60 conflicts or so have erupted since the Second World War and 90% of the victims in these wars are civilians”. The focus is therefore on “protecting civilians, and especially children and women”, according to Nabila Hamza, President of the Foundation for the Future, one of the donors supporting the Conference. The prevalence of conflicts in the region involving ANSAs creates additional challenges, as compared to traditional inter-State conflicts, for the protection of the civilian population, the safety of humanitarian workers and humanitarian access.

Given the growing importance of ANSAs as actors in many conflicts, focus on the respect and implementation of IHL and IHRL norms has shifted from being a task solely applicable to States and regular State armies sworn to the respect of the Geneva Conventions, to one that includes ANSAs. In the sense that ANSAs cannot conventionally be bound to international legal frameworks, engaging ANSAs on IHL and IHRL norms is crucial in assisting those in greatest need of protection. As explained by Elisabeth Decrey Warner, President of Geneva Call, co-organizer of the Conference: “it has become clear that efforts to assist and protect victims of armed conflict, particularly civilian populations, must address not only the behaviour of States, but also that of armed non-State actors”.

In the broader Middle East region, ANSAs operating in Afghanistan, Lebanon, Iraq, Occupied Palestinian Territories, and Yemen have played key roles in internal conflicts as well as in international conflicts. ANSAs have more recently emerged in conflicts in Libya and in Syria. Additionally, ANSAs often assume a political role within States, sometimes taking charge of de facto governmental functions within the territories they control.

This Conference was a step towards the goal of gathering and sharing the views of experts on these issues. Participants included leading specialists and humanitarian workers involved in the region. The conference gave practitioners and experts the opportunity to exchange views, and develop a common understanding of the regional situation. Participants sought to establish a coherent approach to humanitarian engagement of ANSAs and explored possibilities to improve collaboration between regional ANSAs and humanitarian actors. Based on the principle of working in complementarity towards a common objective, stakeholders present at the conference gave accounts of their experiences in engaging ANSAs in the Middle East and in looking for new ways to improve the compliance of ANSAs with their humanitarian and human rights obligations.

The conference was held under Chatham House rules. Speakers and presenters quoted here have given permission for their names to be used.

1. ‘Middle East’ is used in the broad geographical sense. For the purposes of this Conference, the term Broader Middle East refers to Afghanistan, Algeria, Bahrain, Egypt, Iran, Iraq, Jordan, Kuwait, Lebanon, Libya, Morocco, Occupied Palestinian Territories, Oman, Pakistan, Qatar, Saudi Arabia, Tunisia, United Arab Emirates, and Yemen.
2. See the conference programme in Appendix I.
3. See list of experts participating in the conference in Appendix II.
In times of armed conflict, it is extremely difficult to fulfill the needs and ensure the protection of those who do not, or no longer, directly participate in hostilities. With each conflict come concerns that potential violations and crimes may be committed by the different parties involved, and that the basic rules of war may be disregarded.

Humanitarian principles existed long before formal IHL came into existence. Humanitarian obligations in times of conflict were founded upon traditional religious and cultural values.

Bettahar Boudjellal, Director of the Arab Center for International Humanitarian Law and Human Rights Education, stressed that the Koran protects the right to life:

“Anyone killed a person not in retaliation of murder, or (and) to spread mischief in the land – it would be as if he killed all mankind, and if anyone saved a life, it would be as if he saved the life of all mankind”

Al-Ma'idah:32

And in his speech to his army in 323 AD, 11th year of Hijrah, Abubakr, the first successor of the Prophet, established the principle of war as follows:

“O people! Stand firm and I will advise you on ten important matters and be mindful of it from me: Don’t cheat on me, don’t go beyond the limit, don’t betray, don’t torture severely and don’t kill young children, old aged and woman. Don’t cut nor scorch palm trees and don’t cut fruit trees, don’t slaughter sheep, cattle and camel except for meal purpose. You will pass on by people who devout themselves to synagogues so left them and what they devoted for themselves and you will arrive to the people which they come to you with vessels in it colorful foods, so if you desire to eat from it, remember Allah.”

Speech to his army, 11th year of Hijrah, Abubakr

Similarly, the Koran instructs to protect prisoners of war:

“And they feed, for love of HIM, the poor, the orphan and the prisoner”

Al-Insan:8

The Hadith, literally “the speech”, are the words of the Prophet, transmitted through his contemporaries, and are an important source of law in Islam. One of the Hadith points to the necessity of having minimum standards in place during battles and wars. Similar to the principle of proportionality in IHL regarding the means and methods of combat, the following phrase from the Hadith places restrictions on the degree of violence in killing:

“If you kill, be beneficent in killing, if you slaughter, be beneficent in slaughtering”

Narrated by Bukhari and Muslim

Another Hadith prohibits the use of perfidy as does IHL.

“Verily a flag will raise for the betrayer (of truce) on the Day of Judgment, it is said on it, this is the betrayal of so the son of so”

Narrated by Bukhari and Muslim

Cultural and traditional values found in Islam and Christianity for example, and in the codes of Chivalry, and the Bushido ruling the behavior of Samurai warriors, have greatly contributed to disseminating basic principles of humanity which are at the core of contemporary IHL. There are some noticeable differences though, such as the interpretation of reciprocity in Shari’a as a divine right to retaliate against violations perpetrated by the other party.

Michel Veuthey, Vice-President of the International Institute of Humanitarian Law in San Remo, sees these rules as “islands of humanity, they guarantee the survival of individuals, communities, the whole of humanity”. The rules have been translated into instruments of contemporary international law, such as the 1907 Hague Regulations and the 1949 Geneva Conventions. In non-international armed conflicts, Article 3 common to the four Geneva Conventions, and the Second Additional Protocol
The Perception Issue: Building Trust and Confidence with ANSAs to Ensure Humanitarian Engagement

Customary IHL contains specific rules regarding humanitarian action and assistance. However, translating these rules into reality is challenging. Mr. Wael Haj Ibrahim, from the Agency Coordinating Body for Afghan Relief, explained that relief agencies need to cope with “undefined laws” related to how they are perceived by ANSAs. Indeed, non-governmental organizations (NGOs) and relief agencies have to slowly build trust while maintaining the impartiality of their action.

A. Mistrust and Misperception Towards Humanitarian Missions

Quoting an anecdote from the former US Envoy to Afghanistan, the late Richard Holbrooke, Mr. Haj Ibrahim demonstrated the challenges faced by humanitarian workers in many conflict zones today by asserting that “if you want the best intelligence in Afghanistan, talk to NGOs”. Elisabeth Decrey Warner warned that this “region is especially challenging as ‘humanitarian’ is sometimes perceived as not neutral, as being partial, or as a way of imposing ‘foreign’ norms and values”. Many experts confirmed the existence of this mistrust towards international organizations and NGOs in the region.

This tends to create obstacles on the ground for humanitarian actors, including loss of access to conflict zones where victims are most in need of protection, support and assistance. Moreover, the lives of humanitarian workers may be endangered because parties to the conflict, including ANSAs, may be tempted to make use of the principle that you either stand with us or against us. This policy of “either you are with us or against us” has serious consequences for both access and security of humanitarian agencies and has led to what one participant called the “lost decade”. Mr Haj Ibrahim highlighted that ANSA leadership often raises the issue of violations perpetrated by States in the “war on terror”, for example the treatment of prisoners in Guantanamo Bay or Abu Ghraib prison in Iraq. Consequently, one question which humanitarian
What are you asking us to commit to rules no one else commits to?” James Ross, of Human Rights Watch (HRW), also raised this point, asking whether ANSAs “really care about HRW’s naming and shaming actions”, given the high number of State violations witnessed in conflict zones. The non-compliance of States with basic humanitarian norms creates a sense of impunity among ANSAs. This poses an additional challenge for humanitarian actors, and dialogue and negotiation with States on such matters must continue. In the words of Mr. Haj-Ibrahim, “you need three to tango”, meaning that to access a conflict area, you require the cooperation of both parties to the conflict and the willingness of a humanitarian actor to venture into the conflict area. The inclusion of States is hence crucial as they are the bearers of the responsibility to respect and ensure respect of IHL provisions as stated by Article 1 of the Geneva Conventions. Rather than demonizing ANSAs, as evidenced in the rise of anti-terrorism legislation in part due to the ‘war on terror’, efforts should be made to understand ANSA behaviours.

A further perception issue that challenges humanitarian workers is the fact that ANSAs today have their own assistance and humanitarian bodies active in the areas under their control. According to Kate Clark, from the Afghanistan Analyst Network, “aid and assistance have always been a sort of currency in the war and used by all types of players: political, military, governments, donors, NGOs and the UN. That has meant a blurring of the lines between aid in the service of politics and aid as humanitarian action”, thus weakening the identity of humanitarian organizations and disabling their credibility. The fact that ANSAs also carry out assistance missions and provide social services often leads to a lack of interest in the work of international or local humanitarian institutions. M. Haj Ibrahim raised a crucial point: “Why would ANSAs engage with us? They don’t need us, they have their own aid mechanisms, and they question our desire to help”. In Somalia, for instance, “the leaders of the Shabaab may not be open to working with Geneva Call, a Western organization”. Pascal Bongard, Geneva Call’s Africa Programme Director, explained that in such cases, the organization would need to adapt to the ANSAs and find suitable partners to engage and open dialogue. The experience related by the Qatari Red Crescent Society (see page 15) illustrates how a local organization which shares cultural and religious values with ANSAs could successfully engage them in productive dialogue and support the needs of civilians and casualties without necessarily passing through a larger international (Western) relief or humanitarian agency. The diversification of humanitarian players in the past decades has led to the emergence of a new type of humanitarian actor originating from neighbouring countries, and intervening in the context of internal armed conflicts. Examples of this are aid organizations from surrounding countries currently intervening in Somalia. Relying more on such organizations could be a possible solution to the trust and misperception issues that often result in the denial of access to Western institutions.

**B. INSTRUMENTALIZATION OF HUMANITARIAN AID**

In many situations, lack of trust has resulted in the absence of support from ANSAs for humanitarian workers trying to provide protection, assistance and aid to the victims of conflict. The fact that ANSAs have become service providers motivates humanitarian organizations to ensure that these services are provided according to basic humanitarian principles. For instance, as pointed out by Raoul Rosende, from UNOCHA’s office in Yemen, measures can be taken to ensure that aid is provided for the benefit of all those who need it, regardless of ethnic, religious, territorial or political considerations.

![UNWRA camp for Palestinian Refugees, near Tyr, Lebanon](image)
for Human Rights in Palestine, explained how “powerful states were gambling with the fall of Hamas [in Gaza] if they deprive the people of basic necessities. They would then blame the Hamas Government and make it fall”. He added that humanitarian assistance was frequently blocked by the occupying force - Israel - leading to a situation in which 85% of families in Gaza are out of reach of international aid. Humanitarian actors have been unable to intervene and reverse the situation to the benefit of the civilian Palestinian population. This “increases humanitarian needs instead of dealing with the consequences of the Israeli occupation”, added Mr. Younis. Also from Occupied Palestinian Territories, Hamdi Shaqoura from the Palestinian Center for Human Rights, enumerated the basic needs for Gaza, like cement and raw materials in order for the strip to be “connected to the global economy”. He added that “instead, the Israelis are building walls, cutting off West Bank and Gaza, cutting us off from the outside world, cutting us off from our families”.

According to Salar Rasheed, from the NGO Qandil, the instrumentalization of aid also happened in Iraq, namely with the Food for Oil programme. The programme suffered from high levels of corruption and inefficiency in providing basic needs to the civilian population after the Gulf War. Amal Bacha, from the Arab Sisters Forum for Human Rights, explained how relief NGOs in Yemen can be manipulated, contributing to misunderstanding and misperceptions of humanitarian workers during armed conflict.

Furthermore, humanitarian NGOs often do not have the same resources and leverage as States. States play a crucial role in providing assistance and aiding impartial organizations to be active in conflict zones.

Switzerland’s neutral policy represents a cas d’écologie of humanitarian diplomacy in action. When it comes to overcoming the perception challenge and preconceived ideas against Western interventionism, Swiss neutrality represents a model system for engaging parties in a conflict, whether State or non-State actors. Roland Steininger, Representative of Switzerland to the Palestinian Authority, outlined the successful neutral policy followed by his Government, strengthened due to the absence of a colonial past, and the fact that Switzerland is depository of the Geneva Conventions, the backbone of IHL.

Switzerland dialogues with all parties, promotes IHL and calls for the protection of civilians through the support of multiple actors on the humanitarian scene, either internationally through support for organizations such as the ICRC, Geneva Call and the Geneva Academy of International Humanitarian Law and Human Rights, or locally through institutions such as the Mezan Center for Human Rights and the Palestinian Center for Human Rights. Furthermore, Switzerland’s policy of dialogue means that it can open channels with ANSAs and promote the dissemination of humanitarian norms in conflict zones.

Norway holds a similar position to that of Switzerland. Although it is not based on a strictly neutral policy in foreign affairs, Oslo possesses the tools and the means to step in to the humanitarian field and contribute to helping those aiding the civilian populations. For instance on the question of Palestine, some Governments such as Norway “took a different stand from that of the EU which did not recognize Hamas’ victory in 2007 in Gaza”. Such a differentiated approach had greatly helped ensure improved access for resources and for some organizations to assist the needy population in the Occupied Territories.

C. LEGAL CONSIDERATIONS: OVERCOMING LEGAL OBSTACLES TO ENGAGING WITH ANSAS

Some States have created legislation and legal precedents that have narrowed the margins of humanitarian action, rather than strengthening or supporting humanitarian diplomacy and humanitarian work.

The question of the legality of engaging ANSAs for humanitarian purposes was naturally raised during the conference. Many of the ANSAs involved in conflicts are found on “terrorist” lists drawn up in countries such as the USA or in EU member States. Would opening channels of dialogue for relief or protection purposes with these ANSAs become a judicial liability for humanitarian workers and institutions? Olivier Bangerter quoted the provisions within IHL that specify that engagement doesn’t affect ANSA status. For instance, Common Article 3 to the Geneva Conventions stipulates that “[a]n impartial humanitarian body, such as the ICRC, may offer its services to the parties to the conflict”.
may offer its services to the parties to the conflict”. This provides an international legal basis for the involvement of impartial workers with parties to the conflict in “the case of armed conflict not of an international character”, the situation where ANSAs are mostly active. As such, experts were in unanimous agreement that talking to ANSAs does not give the latter any form of legitimacy.

However, existing domestic legal frameworks and recent developments have moved towards a form of criminalization of humanitarian engagement. One example of this is the US Material Support Law, enacted as part of the 1996 Antiterrorism and Effective Death Penalty Act and expanded by the 2001 Patriot Act. The latter gives the Secretary of State virtually unchecked authority to formulate a list of “foreign terrorist organizations”.

The Holder vs. Humanitarian Law Project ruling of the US Supreme Court of June 2010 gave a very broad definition of “material support”, which some scholars interpret as “even when the support consists only of speech advocating peace and human rights” . Prohibited forms of “material support” to listed groups include not only money or weapons, but also “expert advice”, “training” and ”services”. Moreover, the Supreme Court reasoned that engaging such groups risks legitimizing a designated terrorist group, a perspective that further complicates the perception issue for humanitarian organizations.

Therefore, this legislation has significantly limited humanitarian workers’ ability to engage with ANSAs worldwide that have been placed on the list of “foreign terrorist organizations”.

Experts at the conference remained confident that the risk of prosecution for humanitarian workers should remain on the theoretical level, especially for established humanitarian mandates and missions carried out by local and international institutions. Clive Baldwin of Human Rights Watch suggested that, for the risk of prosecution to be really substantial, “it would need a legislative body such as Congress to start looking into this area of legislation very seriously”. Nevertheless, some participants stated that they would continue to monitor developments in this regard.

Mechanisms and Strategies for Engaging ANSAs: Putting Humanitarian Norms First

Experts at the conference presented a variety of strategies to engage ANSAs to ensure the protection of civilians and the safety of humanitarian workers.

A. Direct Engagement: Humanitarian Negotiations

Switzerland makes use of its policy of neutrality in foreign affairs to engage with all parties in a given conflict to encourage the respect of IHL and IHRL obligations. Roland Steininger, pointed out his office’s efforts towards opening direct channels of cooperation and dialogue with the Palestinian Authority in the absence of an official State, and with the de facto authorities in Gaza since June 2007, focusing on IHL-related and human rights questions. The rationale behind this critical dialogue with the de facto Hamas authorities in Gaza are as follows:

a) Hamas had democratically won the January 2006 Parliamentary elections;

b) Following the violent take-over of Gaza by Hamas in June 2007, the latter must be held accountable for its actions and policies (including violations of IHL and IHRL) in light of its direct quasi-governmental control on the ground in Gaza ;

c) Given Hamas’ restrictive/repressive policy vis-à-vis Gaza-based civil society organizations – a number of which are funded by the Swiss Government – the Swiss Government decided to discuss openly with Hamas a number of practical cases of excessive infringement or restrictions imposed on Swiss-funded Palestinian NGO’s.

Such humanitarian diplomacy as practiced by the Swiss Government aims to consolidate the transfer of norms and rules relevant to the parties’ obligations on the ground. The Swiss Government has opened dialogue with Hamas in order to facilitate the dissemination of IHL (rules of conduct during hostilities) and IHRL obligations (such as detention issues, freedom of expression and assembly and the death penalty), and encourage cooperation with investigations (such as the United Nations Fact-Finding Mission on the Gaza Conflict).
Geneva Call is a civil society organization which specializes in engaging ANSAs. The Switzerland-based NGO abides by the principles of neutrality and impartiality. Its President, Elisabeth Decrey Warner, explained that “Geneva Call has been at the forefront of humanitarian engagement of armed groups since 2000 to promote their respect of humanitarian and human rights norms. Its work focuses on armed entities that operate outside effective State control, with a clear chain of command and which are primarily motivated by political goals. These include not only armed groups but also de facto authorities, national liberation movements and internationally non- or partially recognized States”.

Since armed groups cannot become party to international treaties, Geneva Call has developed an innovative mechanism enabling ANSAs to express their engagement by signing a Deed of Commitment. The first Deed of Commitment was on the banning of anti-personnel (AP) mines in 2000. Since then, a total of 42 ANSAs have signed the Deed of Commitment banning AP mines. According to Geneva Call, “the level of respect of these engagements is very high”, with successful outcomes in Burundi, India, Iran, Iraq, Myanmar/Burma, the Philippines, Somalia, Sudan, Turkey, and Western Sahara.

UNOCHA presented a case of humanitarian diplomacy from a UN perspective. Raul Rosende, from the UNOCHA office in Yemen, explained how his office regularly engages with the Houthis, the armed group that controls territory in the north of Yemen.

**Case Study - Negotiating humanitarian access in Yemen**

Against the backdrop of open hostilities in Yemen between armed factions and tribes loyal to the Government (along with the official army) and armed non-State actors such as the Southern Movement or the Houthis, there remains an urgent need for humanitarian aid and assistance.

In an effort to bring assistance to the civilian population and minimize the impact of the conflict, UNOCHA engaged directly with the Houthis seeking to achieve three important objectives: to attempt to improve access to the areas where the population in need was living; to improve the protection of civilians, and to try to guarantee the security of humanitarian workers.

Direct dialogue also enabled organizations such as UNOCHA to learn about ANSAs’ expectations of humanitarian actors, and to understand the needs of the civilian population directly from actors on the ground. As a result, UNOCHA has been able to mobilize resources to provide support to recovery efforts, as well as emergency assistance, which had been an area of concern for leaders of armed groups in the region. This ability to properly identify and assess the needs of the civilian population “brought ANSAs to demonstrate greater flexibility and made them more responsive to humanitarian engagement efforts”.

Through this successful direct engagement, UNOCHA managed to “differentiate between humanitarian negotiations and peace negotiations” and consolidated the legitimacy of humanitarian intervention in the areas affected by armed violence. Mr. Rosende called this “a learning curve” in the dissemination of IHL norms.

In other situations, direct engagement has taken the process a step further, as in Afghanistan for example, where according to Wael Haj Ibrahim, from the Agency Coordinating Body for Afghan Relief, “ANSAs became active in the field as a part of the reconstruction strategy”. Mohammad Hakimi of the Mine Detection Center in Afghanistan pointed out the successful achievements of the Afghan Mine Detection Center.
Action Program which was able to fulfill its mission by opening channels of communications with various ANSAs on the ground and by involving former ANSA members in the demining effort. As a result, “millions of refugees came back after demining efforts”. Mr Hakimi observed that it was “the Taliban who were directly active in demining Kandahar in the South”. 

Direct engagement is also the focus in Somalia where, for instance, the Qatari Red Crescent Society, represented at the conference by Khaled Diab, continues to “communicate with the Shabaab in southern Somalia to enable access of surgical teams in the field”. The Qatari Red Crescent Society does not give much importance to the question of whether direct engagement means legitimization of these groups: “We do not exist in a vacuum”. Salar Rasheed, from Qandil in Iraq, stressed that “communicating with ANSAs is a must: they control areas, they are armed and there is a great need to listen to their arguments”.

Case Study - Engaging ANSAs for demining in Afghanistan:

Afghanistan has suffered from the effects of armed conflict for the last 40 years. Most recently Afghanistan is seeing conflict between the International Security Assistance Force (ISAF) set up by UNSC Resolution 1386 in December 2001 led by NATO, and the forces of the Taliban which changed from Government to armed opposition against the NATO presence and the current Afghan authorities.

Hostilities have led to a renewed use of a weapon that had already proliferated during the Soviet occupation in the 1980s: landmines. Hundreds of thousands more landmines were laid on Afghan soil, adding to the already existing landmine threat to the civilian population.

To address this threat, a UN mine action programme was set up in neighbouring Pakistan and started to involve Moujahideen groups on the issue of landmines, asking them to allow demining activities in the areas they controlled. The Moujahideen groups agreed to this, and indeed became demining actors themselves after undergoing the necessary training. Later on, Mohammad Hakimi of the Mine Detection Center in Afghanistan explained, the Mine Action Programme of Afghanistan was established and managed to engage with different ANSAs in and managed to engage with different ANSAs in Afghanistan itself to create an environment of sufficient confidence to allow the armed groups to become “involved in demining the devices they themselves had planted”.

Case study - Putting neutrality into action in Somalia: Directly engaging ANSAs with the principles of the International Red Cross and Red Crescent Movement

Somalia has been the theatre of non-international armed conflict since 1991, with the involvement of many ANSAs. In 2006, the Islamic Courts Union took control of the southern part of the country before splitting into different armed factions.

As a result, it became increasingly important for humanitarian actors to ensure engagement with a growing number of parties to the conflict in this particularly challenging context. But, as Khaled Diab from the Qatari Red Crescent explained, “the armed groups were refusing to open channels of communication with Western organizations”, hence shutting the door to humanitarian aid.

Nevertheless, the Qatari Red Crescent, working under the motto “Putting Neutrality into Action”, managed to engage directly with the Shabaab. Given their common Islamic ties, the group did not oppose the relief activities of this organization in the areas under its control.
B. **Indirect Engagement: Mediation Strategies and Backstage Negotiations**

Experts also highlighted alternative strategies that can be applied in conflict zones when engaging ANSAs. Alternative strategies may sometimes need to be adopted when direct channels are not available or possible, which is often the consequence of political decisions.

Concerned by the risk of legitimizing ANSAs, many stakeholders stick to a no-direct engagement policy, though such strategies make it difficult to ensure their own safety and the safety of organizations on the ground.

According to Salar Rasheed of Qandil, following the events of 2003 in Iraq, “ANSAs and resistance groups emerged bearing weapons, and this had a huge influence on the work of humanitarian agencies”. Despite the major humanitarian disaster, with Iraq undergoing the “largest refugee movement in the Middle East after that of the Palestinians with 4.5 million people who left the country”, USAID and other donors “did not allow work with ANSAs to provide aid and humanitarian assistance”. NGOs and humanitarian organizations therefore “had to circumvent these interdictions and contact them anyway to be able to work and provide assistance”. This was mainly carried out through unofficial negotiations and indirect engagement strategies. The purpose was to clarify the role of humanitarian NGOs for ANSA leaders, who often suspected the NGOs of spying and seeking to implement foreign agendas.

Other positive outcomes based on mediation strategies were also noted by other participants. In the case of the Palestinian refugee camps in Lebanon, for example, one Government participant explained that “UNRWA found itself in a very uncomfortable situation vis-à-vis local players”. Donor Government actors stepped in and adopted a mediation role to pass on messages from the aid providers and listen to the needs and priorities in the refugee camps. One donor representative added that despite “easy and long-term access in conflict areas, there are an incredible number of humanitarian challenges and problems which remain”. Wissam al-Saliby, from the Permanent Peace Movement, noted that “access was not an issue in Palestinian refugee camps in Lebanon for humanitarian workers, but access to norms was the real challenge”. As a result, a number of NGOs, including Geneva Call, are active in the camps to provide training on IHL and IHRL norms and facilitate the delivery of services.

**Timur Göksel** shared his two decades of experience with the United Nations Interim Force in Lebanon (UNIFIL). He recalled his experience in the 1980s when the UN had decided not to engage with the armed groups controlling different parts of Lebanese territory. “We didn’t know who we were dealing with and we are the UN!” Despite the conservative position of UN leadership in New York, which “had trouble recognizing the size and importance of ANSAs during the conflict” in Lebanon, Mr Göksel was able to implement an informal strategy of unofficial mediation through “key personalized relationships” with Hezbollah and other ANSAs. As a result, in 1992, the newly elected Secretary-General of Hezbollah appointed a special liaison officer between his group and UNIFIL. In the past, “they didn’t know what the UNIFIL was, they saw us as Zionist imperialists”. The same “realpolitik strategy” was also applied to the South Lebanon Army of Major Haddad, “who were also shooting at the UNIFIL”. Here too he was faced with the “same response from UN leadership: no public talks, only unofficial contacts”. This approach of unofficial negotiations contributed to ensuring the safety of peacekeepers.

Ain el Hilweh camp for Palestinian Refugees, near Saida, Lebanon
Conference Recommendations

The rich exchanges between conference participants led to many recommendations to improve the successful engagement of ANSAs for the sake of protecting civilians and humanitarian access, on the basis also that ANSAs are “the governments of yesterday and [might constitute] the governments of tomorrow”. There can be “no justification for inaction” declared Khaled Diab.

Mr Göksel noted that there is unanimous agreement on the importance of establishing relations with ANSAs. “It is time we stop demonizing these people and begin to treat them as political entities”, added Wael Haj Ibrahim. For Geneva Call, “an engagement approach with armed non-State actors, based on dialogue and persuasion, can be effective in securing compliance with humanitarian norms”. Geneva Call favours an inclusive approach whereby armed groups are provided with an opportunity to adhere to humanitarian norms and are held accountable for their commitments. Gerard McHugh, from Conflict Dynamics, expressed the view that engagement of ANSAs should adopt a transparent approach through a basic though crucial no-lies policy to gain trust and respect. He proposed separating “peace negotiations from humanitarian engagement [...]”, in order to preserve the integrity of humanitarian engagement.

IHL expert Michel Veuthey praised the use of Special Agreements in numerous conflicts, a tool made available by Common Article 3 of the 1949 Geneva Conventions. “The ICRC neutral intermediary made it possible in Afghanistan between the Soviets and the Afghan resistance movements. Would it be possible today between ISAF and the Taliban” he wondered? Moreover, customary IHL provides a consistent and consolidated legal framework to which ANSAs could and should commit.

UNOCHA representative Raoul Rosende referred to the “importance of preparing the negotiations, i.e. establishing pre-negotiations”, which he deemed a crucial step to ensure a successful communication channel with ANSAs on the ground. This can be done through a “cluster approach” in which humanitarian partners together plan three-way negotiations with the Government on the one hand and ANSAs on the other. Local communities, which may be able to provide local access for humanitarian assistance, should also be included in the negotiations. The cluster approach, followed largely by international humanitarian organizations today, would then have to include a series of regional and local humanitarian partners that could successfully engage ANSAs. It is worth noting that this is a radical shift from the classic humanitarian approach, which has traditionally considered that not being from the region, or culturally related to parties to the conflict was one of the most important factors guaranteeing a certain level of impartiality.

Participants therefore agreed on the need to strengthen this inclusive humanitarian approach. This means that additional room can be made for Islamic relief organizations, who “can be in a better position to work with ANSAs in some fields”, an observation made by Khaled Diab from the Qatari Red Crescent. Regarding the characteristics of the engagement process, Olivier Bangerter, quoted the study “Rules of Engagement: Protecting Civilians through Dialogue with Armed Non-State Actors” which proposes that these negotiations should occur “as early as possible, as high as possible, as deep as possible”, and recommends “a more systematic engagement”, stressing the “need to engage with the broadest possible range of groups for the sake of the protection of civilians”. The study was quoted on this issue by the UN Secretary-General in his 2012 report on the protection of civilians.
ABOUT THE ORGANIZERS

The conference was designed and organized by two organizations experienced in the field of armed conflict: the Beirut-based Permanent Peace Movement and the Swiss non-governmental organization, Geneva Call, specialized in engaging ANSAs towards compliance with IHL and IHRL norms.

THE PERMANENT PEACE MOVEMENT

The Permanent Peace Movement (PPM) is an independent Lebanese, non-governmental organization (NGO) founded in 1989 at the height of the Lebanese civil war by a group of young university students unified by their common vision of the future and their aversion to war. They considered that the peaceful means for conflict resolution are the most useful of all, and once exhausted, one should resort to non-violent means and never to violence.

PPM works on building peace in the local, national and international communities through spreading the culture of peace and transforming/preventing conflicts. It also strives to empower individuals and institutions enabling them to play their respective roles in this field.

PPM works in coordination with the various components of the community in the following fields:

- Resolving/preventing conflicts through researches and trainings, and intervening where necessary and possible.
- Controlling armament, possession and misuse of small arms.
- Promoting transitional justice, facing the past and consolidating reconciliation in the post-war society.
- Human rights and human security.
- Promoting children’s rights and stopping the use of children in armed conflicts.
- Spreading the culture of non-violence so that it becomes a value and a human choice by itself.
- Replacing retributive justice by restorative justice.
- Promoting citizenship and democracy and motivating individuals as well as groups to fulfill their duties and know their rights.

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Geneva Call

Geneva Call is a neutral and impartial humanitarian non-governmental organization that engages with ANSAs to promote their respect for international humanitarian norms in armed conflicts and other situations of violence, in particular regarding the protection of civilians. Geneva Call gives ANSAs the opportunity to adhere to and respect the norms of International Humanitarian Law (IHL) and International Human Rights Law (IHRL).

To achieve this, Geneva Call seeks a formal undertaking by ANSAs, inviting them to sign and comply with a Deed of Commitment to respect these norms. Signatory ANSAs agree that Geneva Call will monitor and verify their compliance.

Geneva Call is currently focusing its efforts on banning the use of AP mines; protecting children from the effects of armed conflict; prohibiting sexual violence in armed conflict, and working towards the elimination of gender discrimination. Geneva Call also responds to ANSA requests to help build their knowledge of and capacities to implement IHL and IHRL.

Geneva Call
3 bis Chemin des Pontets
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APPENDIX I – Conference Agenda

Friday 30 March 2012

8:30 - 9:00 Registration

9:00 - 9:30 Opening remarks

- Fadi Abi Allam, Permanent Peace Movement
- Elisabeth Decrey Warner, Geneva Call
- Nabila Hamza, Foundation for the Future

9:30 - 11:15 ANSAs and Civilian Protection: an International Legal and Normative Review

- Keynote Speech: Michel Veuthey, Vice President of the International Institute of Humanitarian Law – Customary law and the reality of armed conflicts
- Boudjellal Bettahar, Director of the Arab Center for International Humanitarian Law and Human Rights Education (France) – Islamic review on Law of Armed Conflict
- Wael Haj-Ibrahim, Agency Coordinating Body for Afghan Relief – Cultural Values and Humanitarian Engagement

11:15 - 11:45 Coffee Break

11:45 - 13:15 Humanitarian Access for Protecting Civilians from the Consequences of Armed conflict

1) Afghanistan

- Mohammad Hakimi, Mine Detection Center – Humanitarian Needs and ANSA involvement: Humanitarian Mine Action
- Kate Clark, Afghan Analyst Network – International contribution to the engagement of ANSAs
- Wael Haj-Ibrahim, Agency Coordinating Body for Afghan Relief – National or local contribution to the engagement of ANSAs

Discussion

2) Somalia

- Khaled Diab, Qatar Red Crescent Society – International contribution to the engagement of ANSAs
- Pascal Bongard, Geneva Call – Geneva Call’s experience in engaging ANSAs in Somalia

Discussion

13:15 -14:45 Lunch

14:45-18:00 Achievements and Challenges on Humanitarian Engagement with ANSAs
3) Gaza, Palestine

- **Hamdi Shaqqura**, Palestinian Center for Human Rights – Rights, Challenging Norms and Humanitarian Access

- **Roland Steininger**, Swiss Government, Representative Office of Switzerland to the Palestinian Authority – International contribution to the engagement of ANSAs

- **Issam Younis**, Al Mezan Center for Human Rights – National or local contribution to the engagement of ANSAs

**Discussion**

4) Yemen

- **Raul Rosende**, UNOCHA Office in Yemen, International contribution to the engagement with ANSAs

- **Amal Basha**, Sisters Arab Forum for Human Rights – “Local contribution to the engagement with ANSAs”

**Discussion**

19:00 - 20:30 **Reception at the Residence of Mrs. Ruth Flint, Ambassador of Switzerland in Beirut.**

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**Saturday 31 March 2012**

**Understanding Civilian Protection Needs and ANSA Engagement**

9:00 - 9:45 **Achievements and Challenges on Humanitarian Engagement with ANSAs (continued)**

5) Lebanon

- **Mai Tonheim**, Royal Norwegian Embassy in Beirut – International cooperation with organisations inside the camps

- **Wissam Al-Saliby**, Permanent Peace Movement – Local NGOs’ role in meeting needs for Child protection

**Discussion**

9:45 – 11:30 **The Extent of Government and UN participation in Initiatives**

- **Olivier Bangerter**, Section humanitarian policy and migrations, Human Security Division, Federal Department of Foreign Affairs, Switzerland – The approach of the Government of Switzerland

- **Mai Tonheim**, Royal Norwegian Embassy in Beirut – The approach of the Government of Norway

- **Raul Rosende**, UNOCHA Office in Yemen – The extent of Government and UN participation in initiatives
11:30 - 12:30 Strategizing for the Improvement of Humanitarian Engagement with ANSAs

- Advocacy towards ANSA
- Specific humanitarian commitments, including Codes of Conduct
- Training on humanitarian norms for ANSAs
- The various approaches taking into consideration local, cultural and religious sensitivities

- Pascal Bongard, Geneva Call
- Katherine Kramer, Geneva Call
- Timur Göksel, former UNIFIL Senior Advisor and Spokesperson, and lecturer on Middle East security issues

12:30 - 14:00 Lunch

14:00 - 15:30 Strategizing for the Improvement of Humanitarian Engagement with ANSAs (continued)

- James Ross, Human Rights Watch
- Salar Rasheed, Qandil
- Gerard McHugh, Conflict Dynamics – Preserving the Integrity of Humanitarian Negotiations

15:30 - 16:00 Coffee Break

16:00 - 17:00 Final Session

Wrap-up by Karim El Mufti, Permanent Peace Movement

Concluding Discussion by Mehmet Balci, Geneva Call

Recommendations and follow-up steps
## APPENDIX II – PARTICIPANTS LIST

<table>
<thead>
<tr>
<th>First Name</th>
<th>Last Name</th>
<th>Region/Area of expertise</th>
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<td>International Institute of Humanitarian Law</td>
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