

Non-State Armed Groups

An annotated bibliography

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August 2006

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Introduction

In the last twenty years, most of the wars have increasingly been intra-state and deeply rooted violent conflicts: Various groups have taken up arms against governments with non-state armed groups (NSAG) being increasingly important actors. Yet, with the “terrorist attacks” in the USA and Europe, it has become increasingly difficult to engage with non-state armed groups.

The debate on non-state armed groups remains highly controversial and often politically motivated. Likewise, the terms being used go hand in hand with a value judgement. In the eyes of NSAG themselves and their supporters, they are the “liberation fighters” or the “national resistant movement”. Those who are opposed to engaging with non-state armed groups, refer often to them as “terrorists”. In fact, the international “War on Terror” has provided significant political rationale for swiftly de-legitimizing non-state armed groups.

So how could one define a non-state armed group? A first influential definition of NSAG can be found in the Additional Protocol II to the Geneva Conventions: It is stated that the rules only apply in internal conflicts between a government’s armed forces “[...] and dissident armed forces or other organized armed groups which, under responsible command, exercise such control over a part of its territory as to enable them to carry out sustained concerted military operations and to implement this Protocol.”

This definition is stricter than most other definitions and it requires an effective control over a territory.

The most recent definition of NSAG comes from Conciliation Resources (2006). Conciliation Resources define non-state armed groups as actors “...which operate outside state control, challenge the state’s monopoly on coercive force, and who are capable of preventing, blocking or endangering a humanitarian or conflict resolution initiative.” (Conciliation Resources 2006, 3).

This definition leaves little room for discussing NSAG’s very capacities for engaging in humanitarian action or conflict resolution initiatives. We consider NSAG as political actors violently expressing marginalized groups’ needs and interests. NSAG - next to the government - hold the key in ending the violent conflict. One could argue that if a non-state actor does not have the possibility to exercise its “soft power” like dialogue, it will be more inclined to use “hard power” like violence in order to be heard and to be taken seriously. Only by dealing with armed groups, there is a chance to improve the living conditions of the local population that bears the main burden of continued fighting.

Here we agree with the authors of the Conciliation Resources’ Accord series on “Choosing to engage: Armed groups and peace processes” that there is no political alternative but to engage with NSAG. Engaging defines the “opportunities for dialogue or practical confidence-building measures that may ultimately be able to address the causes and consequences of the conflict” (Conciliation Resources 2006, 3). While being aware of the potential dilemmas of legitimizing violent social groups, we think that constructive engagement with NSAG is a political sine qua non for a lasting and sustainable peace.

While dealing with NSAG, various governmental and non-governmental actors have made some very important experiences. Still, these lessons learnt have to be generated and collected in a more systematic way. Sophisticated and innovative policy instruments and practical tools on how to engage with armed groups have to be still developed.

The aim of this annotated bibliography is to provide an overview of the literature, which is relevant for discussing how to engage with NSAG in the wider context of conflict and peace processes. A special focus is put on the strategies and instruments of external actors engaging with NSAG.

The annotated bibliography includes a wide array of publications, which focus on the practical and conceptual, political and legal, humanitarian and peacebuilding aspects of the engagement with armed groups. What we did not include is the rich conflict literature focusing on NSAG in the context of specific conflict areas, individual NSAG and the rather elusive literature on "terrorism".

In the light of the international available literature on NSAG, the publications are clustered according to the following thematic foci:

- Child recruitment,
- Gender
- General overview and reflections- Humanitarian engagement
- International Humanitarian Law and Human Rights
- Peace Processes
- Small arms, light weapons and landmines

This classification is highly subjective and dependent on our reading of the literature. Others may have come up with different thematic titles or would have grouped the references in different blocks. Based on our reading of the literature, we grouped the publications in the thematic block which comes closest to their analytical foci. There are no cross-references.

The references are listed alphabetically and, where available, the internet links provided. References to important international legal documents supplement the bibliography. The terms "non-state (armed) actors" and "(non-state) armed groups" are used interchangeably.

This publication acknowledges the already existing short annotated bibliography on non-state armed groups by David Capie (2005). There the interested reader will also find web links of organizations working on NSAG.

We are grateful to all individuals and organizations which supported us by pointing us to useful contacts, hints and information.

Abbreviations

AP mines: Antipersonnel mines

DCAF: The Geneva Centre for Democratic Control of Armed Forces

DDR: Disarmament, Demobilization, and Reintegration

DoC: Deed of Commitment under Geneva Call for Adherence to a Total Ban on Anti-Personnel Mines and for Cooperation in Mine Action

ICHRP: International Council for Human Rights Policy

ICRC: International Committee of the Red Cross

ICHRP: International Council for Human Rights Policy

ICC: International Criminal Court

IDP: Internal Displaced Person

IHL: International Humanitarian Law

IHR: International Human Rights Law

NGO: Non-Governmental Organization

NSAG: Non-state Armed Groups

UNICEF: The United Nations Children's Fund

Annotated Bibliography

Child recruitment

Becker, Jo 2003: Child Soldiers and Armed Groups. Notes for a Presentation to the Conference on Curbing Human Rights Violations by Non-State Armed Groups, organized by the Armed Groups Project, Vancouver (13-15 November).

http://www.armedgroups.org/images/stories/pdfs/becker_paper.pdf

Jo Becker advocates for a stronger and more concerted pressure of the international community to persuade NSAG to stop using child soldiers. Human Rights Watch estimates that worldwide 300'000 children participate in armed conflict. In most cases, they are recruited by armed opposition groups. In the last few years, a number of NSAG have publicly committed themselves to stop recruiting child soldiers, but nonetheless often continue to do so.

Jo Becker points out that armed groups will not relinquish recruiting child soldiers unless the perceived benefits of doing so outweigh the military advantages. While positive incentives for stopping child recruitment include increased legitimacy, material support for rehabilitation and educational opportunities, negative consequences are "shaming" in international forums, restrictions on assistance and prosecution by the ICC.

Coalition to Stop the Use of Child Soldiers and UNICEF 2003: Guide to the Optional Protocol on the Involvement of Children in Armed Conflict. New York: UNICEF.

http://www.child-soldiers.org/document_get.php?id=972

This guide has been developed by the "Coalition to Stop the Use of Child Soldiers" and by UNICEF as a contribution to the international efforts to prevent and end the use of child soldiers. The publication contains essential information on the context surrounding the adoption of the "Optional Protocol on the Rights of the Child on the Involvement of Children in Armed Conflict", its key provisions and the processes for signature, ratification and measures needed for effective implementation. As most child soldiers are part of armed groups, the issue of armed groups and child soldiers is also discussed. It is stated that the Optional Protocol only applies, via the state, to armed groups. Yet, several armed groups have committed themselves to respect the Optional Protocol.

The Guide serves as a useful tool to engage NSAG for the purpose of better protecting the rights of children. Written in a non-jargon language, this guide is an important and easy-to-understand read - for non-lawyers and lawyers alike.

Restoy, Enrique 2005: Armed Groups and Resolution 1612. Child Soldiers Newsletter, Issue 14, Winter 2005/2006, 6.

http://www.child-soldiers.org/document_get.php?id=1058

Enrique Restoy identifies the issue of child recruitment by armed groups as one of the major challenges for engagement of the international community. He analyzes the United Nations Security Council Resolution 1612 which calls for a monitoring and research mechanism. He argues that this resolution represents an important step towards carrying out effective measures against armed forces recruiting children. Resolution 1612 demands a task force

on monitoring and reporting on the ground aiming at obtaining timely information on violations against children in armed conflicts.

Gender

Mazurana, Dyan 2004: Women in Armed Opposition Groups Speak on War, Protection and Obligations under International Humanitarian and Human Rights Law. Report of a Workshop Organized in Geneva by Geneva Call and the Program for the Study of International Organization(s) (26-29 August 2, Geneva: Geneva Call and the Program for the Study of International Organization(s).

<http://www.genevacall.org/resources/testi-publications/gc-29aug04-long.pdf>

A workshop for women combatants was organized by Geneva Call and the Program for the Study of International Organization(s) in Geneva in August 2004. The main aim of the workshop was to learn more about the experiences of women and girls within armed opposition groups and to assess their potential roles in the promotion of IHL and IHR. The report draws upon the information and insights that came out of the workshop and is further enriched by secondary research. The conference report is structured in four sections with each section concluding with key lessons learned. First, the report covers the rights and obligations for women and girls in armed opposition groups under IHL and IHR. Second, it investigates how and why women and girls join armed opposition groups: Most of them join in order to protect themselves and their families from further human rights violations. Third, the report analyzes the interaction between the DDR processes and women fighters. Four, it investigates the potential gains and obstacles which women in NSAG face while promoting and enforcing IHR and IHL. While women do hold important positions within the armed opposition groups, the women's voices and priorities continue to be marginalized within peace processes. The workshop and the subsequent report are a first attempt to introduce a gender-specific perspective in the work with NSAG.

Mazurana, Dyan 2006: Women in Armed Opposition Groups in Africa and the Promotion of International Humanitarian Law and Human Rights. Report of a Workshop Organized in Addis Ababa by Geneva Call and the Program for the Study of International Organization(s) (23-26 November 2005), Geneva: Geneva Call and the Program for the Study of International Organization(s).

<http://www.genevacall.org/resources/testi-publications/gc-23nov05-women.pdf>

Building very much on the insights from the first workshop in 2004, this workshop - organized by Geneva Call and the Program for the Study of International Organisation(s) in 2005 in Addis Ababa - brought together women leaders from armed opposition groups and civil society in Africa, international humanitarian actors, disarmament, demobilization and reintegration and conflict transformation specialists, and former African women ex-combatants who had successfully transitioned into leading governance and civil society roles. The objective of the workshop was to discuss and learn more about the understanding, application and observance of international humanitarian law and human rights law within African armed groups and their political wings in general and the roles of women leaders within these groups in particular.

General overview and reflections

Capie, David 2005: Non-State Armed Groups. In: Political Affairs Division IV, Human Security (ed.): Swiss Expert Pool for Civilian Peacebuilding – Resource Handbook. Bern: Federal Department of Foreign Affairs.

http://www.eda.admin.ch/sub_expool/g/home/sef-handbuch.ContentPar.0018.UpFile.tmp/dc_050614_0123456789_e.pdf

This annotated bibliography compiled by David Capie is part of the resource handbook for the Swiss Expert Pool for Civilian Peacebuilding. As such it is primarily intended to meet the needs of the members of the expert pool. The document is a very useful toolkit for academics and practitioners dealing with NSAG, especially for those looking for a first overview of the literature on non-state armed groups. Not only does it include the usual bibliographical details and a short synopsis of the articles and books, it also offers the key (official) documents, websites and information about relevant organizations.

Holmqvist, Caroline 2005: Engaging Non-State Actors in Post-Conflict Settings. In: Alan Bryden and Heiner Hänggi (eds): Security Governance in Post-Conflict Peacebuilding (Series: Geneva Centre for the Democratic Control of Armed Forces (DCAF)), Münster: LIT Verlag.

<http://www.lit-verlag.de/reihe/gecefo>

http://www.dcaf.ch/publications/security_governance_post_conflict_05/bm_sqpc_book.cfm?nav1=4&nav2=2

(Official site; no download)

This chapter explores the scope and possibilities for influencing armed non-state actors in order to establish effective security sector governance in post-conflict settings. While distinguishing between “traditional” armed groups, such as rebel opposition groups, and private security companies, the chapter is divided into two parts. The first part deals with armed groups as a challenge for security governance and illustrates how such groups may both abuse and protect the local population. It is argued that there is a need to increase the respect for IHL and IHR among armed groups. To this end, external actors need to further coordinate their efforts. The second part of the chapter discusses the roles of private military companies.

Ould Mohamedou, Mohammed-Mahmoud 2005: Non-Linearity of Engagement: Transnational Armed Groups, International Law, and the Conflict between Al Qaeda and the United States. Cambridge: Program on Humanitarian Policy and Conflict Research, Harvard University.

http://www.hpcr.org/pdfs/Non-Linearity_of_Engagement.pdf

Mohammed-Mahmoud Ould Mohamedou is very openly critical of the American (and other Western countries’) foreign policy and strongly advocates for talks with Al Qaeda. He stresses that the Western analysts have systematically failed to understand Al Qaeda since their analysis remains centered on Al Qaeda’s “irrationality”, “fundamentalism”, and “hatred”. According to Ould Mohamedou, the United States will not be able to overpower this diffuse, ever-mutating, organized international NSAG. In fact, the Western governments should start to engage with Al Qaeda by acknowledging them and addressing the issues raised by them. While Ould Mohamedou offers a very provocative policy brief, he offers an important counter-argument to the pro-“War on Terror” argumentation dominating much Western foreign policy thinking.

Policzer, Pablo 2002: Human Rights and Armed Groups: Toward a New Policy Architecture. Vancouver: The Armed Groups Project.

http://www.armedgroups.org/images/stories/pdfs/0207policzer_humanrights.pdf

This paper argues that a new policy framework to curb human rights abuses by both states and NSAG requires moving beyond the simplistic state/non-state dichotomy. The distinction between states and non-state groups has been blurred and there is a great deal of variation among states and non-state armed groups. Policzer offers such a policy framework by analyzing how various groups – states and NSAG alike – organize coercion. He suggests a typology which permits a more systematic analysis of possible leverages that the international community has at hand while engaging with NSAG.

Policzer, Pablo 2005: Neither Terrorists nor Freedom Fighters. Calgary: University of Calgary.

http://www.armedgroups.org/images/stories/pdfs/policzer_neither_terrorist_nor_freedom_fighters.pdf

While the “War on Terror” promotes the idea that armed groups should be dealt with outside the framework of international public law, Policzer argues that legal international standards should apply to all relevant actors, not simply to states. By referring to the title of his paper “Neither terrorists nor freedom fighters”, Policzer states that a first step of bringing NSAG into the framework of international law would be to come up with a common definition of “armed groups”. Policzer proposes a minimalistic working definition that tries to avoid the simplistic state/non-state dichotomy. Policzer’s approach takes into consideration the variations among armed groups and makes clear that not only states can be legitimate political institutions.

Policzer, Pablo 2005a: “Promoting Democracy beyond the State: The Problem of Armed Groups (Draft)”. Calgary: University of Calgary.

http://poli.ucalgary.ca/dept/pubs/Policzer-Promoting_Democracy.pdf

Pablo Policzer discusses the genesis and the development of NSAG. The paper explores the limits of the “state-centric democratic framework” and asks whether it is desirable (and possible) to promote democracy beyond the state. Policzer discusses the function and role of the state to regulate violent conflict, with the focus on the challenges of “fragmented sovereignty” and possible solutions. Policzer argues for promoting democracy from what he calls a “humanitarian realist” perspective, which has enabled two other bodies of norms – the IHL and IHR – to incorporate non-state actors. He concludes that “democracy” must be extended beyond states and armed groups have to be included and directly engaged.

The Armed Groups Project 2003: Curbing Human Rights Violations by Non-State Armed Groups. Conference summary and report. The Armed Groups Project. University of British Columbia, Vancouver (13-15 November).

<http://www.armedgroups.org/images/stories/pdfs/confreport.pdf>

In November 2003, a conference was held by the Armed Groups Project on “Curbing Human Rights Violations by Non-State Armed Groups”. The conference discussed the policy changes presented by armed groups and the kind of instruments that might be effective in influencing them. On the one hand, people’s living conditions are very much affected by NSAG. On the other hand, the international community’s leverage on NSAG remains rather limited. The summary of the conferences discusses the question of group structure within NSAG. It is underlined that armed groups vary significantly in terms of their organizational

structure and motivations. The report also examines the effectiveness of instruments, which the international community has at its disposal to try to influence NSAG. There is a wide range of strategies for dealing with NSAG: persuasion and engagement, “naming and shaming”, “carrots and sticks”, legal responses and the explicit inclusion of Diasporas. It is concluded that specific instruments have to be matched with different kind of groups. The appendix offers a useful table which illustrates such a matching of groups and instruments.

Humanitarian engagement

Capie, David and Pablo Policzer 2004: Keeping the Promise of Protection: Holding Armed Groups to the Same Standards as States. A Policy Brief Commissioned for the United Nations’ High Level Panel on Global Security. Vancouver: The Armed Groups Project.

<http://www.armedgroups.org/images/stories/pdfs/keeping%20the%20promise%20of%20protection.pdf>

This short article, written by David Capie and Pablo Policzer, presents a policy brief commissioned for the UN Secretary-General’s High Level Panel on Global Security. Armed groups, even if they are not new political phenomena, demand today an unprecedented political attention. The international security of states and the human rights of millions of people are threatened by NSAG. Yet, the traditional notion of human rights and humanitarian instruments remain focused on states as key actors. Many international organizations and NGOs have started to engage with armed groups. And the Secretary-General has repeatedly called for measures to address “all parties” in armed conflicts. Yet, states, mainly concerned about their national security and sovereignty, remain reluctant to place the general question of NSAG to the UN’s political agenda. It is therefore not a big surprise that the issue of non-state actors is not included in the final report of the United Nations High Level Panel on Global Security.

Centre for Humanitarian Dialogue 2003: Humanitarian Engagement with Armed Groups: The Central Asian Islamic Opposition Movements. Geneva: Centre for Humanitarian Dialogue.

<http://www.hdcentre.org/datastore/files/Asianmovements.pdf>

The Centre for Humanitarian Dialogue examines the relationship between humanitarian organizations and three Islamic opposition groups in Central Asia, mainly in Tajikistan and Uzbekistan: the Islamic Renaissance Party, Hizb ut-Tahrîr (Liberation Party) and the Islamic Movement of Uzbekistan. The Tajikistan Islamic Renaissance Party fought a civil war against the government of Tajikistan during the civil war. During that time, humanitarian actors had regular contacts with that group, which proved necessary and facilitated humanitarian action. The Hizb ut-Tahrîr is a prohibited pan-Islamic political party that wants to restore the original caliphate by non-violent means. The contacts between humanitarian organizations and that group were possible only under very difficult security conditions and took place mainly outside Central Asia. Humanitarian contacts with the Islamic Movement of Uzbekistan, a radical Islamic group, are unknown and unlikely. It is stressed that as Islamic opposition groups exert a big influence over public opinion, it is important for humanitarian organizations to overcome their negative perceptions of Islamic groups.

Glaser, Max P. 2005: Humanitarian Engagement with Non-State Armed Actors: The Parameters of Negotiated Access. Network Paper (June). London: Humanitarian Network.
<http://www.odihpn.org/publistResults.asp> (Official site; no download)

This paper focuses on humanitarian engagement with non-state armed actors in a rapidly changing international context. In particular, Glaser points out why some combatants react positively to humanitarian demands to meet access preconditions, while others dismiss them. The report assesses the effectiveness and reliability of access agreements, which can serve as a foundation for a risk-benefit analysis for an engagement with armed groups. The key operational question for an organization dealing with NSAG is if the agreements reached will meet the two basic preconditions of humanitarian action: security for aid workers and respect for the principles of IHL.

Hofmann, Claudia 2004: Engaging Non-State Armed Groups in Humanitarian Action: State Actor and Non-Governmental Approaches. Bonn: German Development Institute.
[http://www.diedi.de/die_homepage.nsf/6f3fa777ba64bd9ec12569cb00547f1b/7ff02380449e81fc1256e14003340ef/\\$FILE/Engaging%20Non-State-D-Hofmann.pdf](http://www.diedi.de/die_homepage.nsf/6f3fa777ba64bd9ec12569cb00547f1b/7ff02380449e81fc1256e14003340ef/$FILE/Engaging%20Non-State-D-Hofmann.pdf)

This paper discusses the differences, commonalities, and difficulties for states and NGOs engaging with non state armed groups. While underlining the differences between an engagement in humanitarian action on the one hand and in peace processes on the other hand, the paper focuses on the area of humanitarian action. Hofman argues that compared with peace processes, where a normative foundation, like a cease-fire, is set in place, there are vast shortcomings in setting up a legal framework for NSAG in the field of humanitarian action. It is stated, that NGOs can fill a political gap within a state-centric system by employing low-key initiatives, like confidence-building measures. These NGO initiatives have a real strategic advantage: They can engage with NSAG without directly addressing delicate political issues like the legitimization or the official recognition of NSAG. Hofman refers to the work of the NGOs Geneva Call and the Coalition to Stop the Use of Child Soldiers as positive illustrative examples. Claudia Hofmann stresses that while the NSAG-NGOs interactions may not immediately stop or reduce the sufferings of non-combatants in a conflict, they can constitute the first important step at the beginning of a peace process.

Mc Hugh, Gerard and Manuel Bessler 2006: Guidelines on Humanitarian Negotiations with Armed Groups. New York: United Nations.
<http://ochaonline.un.org/humanitariannegotiations/Documents/Guidelines.pdf>

This set of guidelines accompanies the publication "Humanitarian negotiations with armed groups: a manual for practitioners". It summarizes the guidance presented in the more comprehensive manual on how to prepare for and conduct humanitarian negotiations with armed groups. The six sections of the booklet follow closely the content and the structure of the main manual (see below). In addition to that, the guidelines present information on the important contextual elements of the negotiations. As way of illustration, Mc Hugh and Bessler refer to short case studies and examples of practical experiences of humanitarian negotiations with NSAG.

Mc Hugh, Gerard and Manuel Bessler 2006a: Humanitarian Negotiations with Armed Groups: A Manual for Practitioners. New York: United Nations.
<http://ochaonline.un.org/humanitariannegotiations/Documents/Manual.pdf>

This manual provides the first of its kind hands-on approach to humanitarian negotiations with armed groups. The following issues are covered: the motivations and partners for humanitarian organizations, how humanitarian principles and policies can build a framework for the negotiations and concrete practical steps for humanitarian organizations across three phases of negotiation (preparation; seeking agreement and implementation), and negotiations on specific issues. In the annex one finds a helpful worksheet for mapping the characteristics of NSAG. The manual includes a CD-ROM with a bibliography, internet resources, reference documents on humanitarian principles and on international law, and a listing of relevant documents by country. An accompanying summary of this manual is available in the form of a short guideline booklet (see above). This useful tool is intended for UN humanitarian, development and human rights workers to enhance their negotiations with NSAG.

Santos, Soliman M., Jr. 2003: A Critical Reflection on the Geneva Call Instrument and Approaches in Engaging Armed Groups on Humanitarian Norms: A Southern Perspective. Presented at the conference on "Curbing Human Rights Violations by Non-State Armed Groups", organized by the Armed Groups Project, Vancouver (13-15 November).

http://www.armedgroups.org/images/stories/p2dfs/santos_paper.pdf

Soliman M. Santos gives a analysis of the "Deed of Commitment under Geneva Call for Adherence to a Total Ban on Anti-Personnel Mines and for Cooperation in Mine Action (2000) (DoC)". He makes a critical reflection of the successes and shortcomings, strengths and weaknesses, lessons and challenges with regard to the four-fold mechanism adherence, assistance, accountability and participation of Geneva Call's DoC. According to Santos, seeking accountability is the real challenge of the DoC. He stresses, that at the heart of a decision of a NSAG to adhere (or not) to a ban on landmines is the following trade-off: Do the benefits or potentials of international legitimacy, assistance and positive publicity countervail the risks and costs of stopping fighting?

International Humanitarian Law and Human Rights

Andreopoulos, George J. 2003: The International Legal Framework and Armed Groups. Draft presented at the conference on "Curbing Human Rights Violations by Non-State Armed Groups", organized by the Armed Groups Project. University of British Columbia, Vancouver (13-15 November).

http://www.armedgroups.org/images/stories/pdfs/andreopoulos_paper2.pdf

This draft clarifies what the international legal framework can contribute to exercise political leverage on non-state armed groups. Andreopoulos claims, that despite their gaps, IHL and IHR provide a satisfactory and elaborated framework to engage with armed groups and hold them accountable. He argues that the further development of legal norms may not be of prime importance. What is more crucial is to enhance the respect and the consistent application of the existing international rules and standards.

Bruderlein, Claude 2000: The Role of Non-State Actors in Building Human Security: The Case of Armed Groups in Intra-State Wars. Geneva: Centre for Humanitarian Dialogue.
<http://www.hdcentre.org/datastore/files/nsa.pdf>

This paper deals with the role of armed groups in the implementation of IHR and IHL in situations of internal armed conflict. It illustrates the requirements and benefits of engaging with non-state actors. Before outlining the strategies at hand to convince NSAG to adhere to humanitarian law, Bruderlines stresses the need to classify the set-up and self-understanding of armed groups. To this end, Bruderlein suggests the following criteria: 1) a basic command structure; 2) the use of violence to achieve political ends; and 3) independence from state control. He argues, that if an armed group does not meet one or more of these criteria, it might be politically futile to try to seek adherence to international standards. Once an armed group has been selected for a humanitarian dialogue, the success of a specific strategy depends on military, political, economic, social and cultural factors. Finally, the paper reviews two possible engagement strategies: exerting pressure on the groups as political entities and building their capacity as administrative organizations. Being written in a very clear style, this analysis is one of the earliest, most useful attempts to seriously deal with strategies on how to engage with and influence armed groups.

Clapham, Andrew 2006: Human Rights Obligations of Non-State Actors. Oxford: Oxford University Press. To be ordered under:
<http://www.oup.co.uk/isbn/0-19-829815-3>

This book addresses the human rights obligations of non-state entities. It sets out how non-state actors, such as corporations, international organizations and rebel groups international organizations can be better held accountable. Chapter 7 of the book deals with non-state actors in times of armed conflict. It analyzes, among others, practical steps taken to ensure respect for human rights by non-state actors. In that context, two particular initiatives are highlighted: The Special Representative of the Secretary-General for Children in Armed Conflict and the DoC. The legal value of DoC is subject of enduring discussion. Still, Clapham concludes that such a "commitment regime" has the potential to become even more effective in seeking human rights accountability from non-state actors than the formal treaty regime: The reason being that the DoC directly addresses NSAG and provides a clear set of obligations.

ICRC 2003: Improving Compliance with International Humanitarian Law. Summary report of the ICRC Expert Seminars. Geneva: ICRC.
[http://www.icrc.org/Web/eng/siteeng0.nsf/htmlall/5TAM64/\\$File/Improving%20compliance%20with%20ihl-Oct%202003.pdf](http://www.icrc.org/Web/eng/siteeng0.nsf/htmlall/5TAM64/$File/Improving%20compliance%20with%20ihl-Oct%202003.pdf)

The ICRC organized in 2003 a series of regional expert seminars on improving compliance with international humanitarian law particularly in the context of intra-state conflicts. This summary report collects the points raised in these seminars. It is underlined that both state actors and NSAG are bound by the provisions of international humanitarian law. Different suggestions of how to practically improve the compliance with IHL among armed groups are put forward. One possible option are special agreements between states and NSAG, such as envisaged under common article 3 (3) of the Geneva Conventions, or a limited agreement on selective IHL provisions. A unilateral declaration by the armed group is another interesting mechanism, especially if the state is unwilling to sign a special agreement. This kind of mechanism, applied by Geneva Call could be extended to other fields, such as child soldiers.

The report also considers what incentives could be given to armed groups to encourage better compliance. The fact that armed groups member can be prosecuted for mere participation in hostilities constitutes a big obstacle for them to lay down their weapons. The report advocates for immunity from prosecution, a reduction of punishment, and "combatant-like" status for armed group members. It is argued that a link could be made between a proposed grant of amnesties by the state and an expressed consent of compliance with IHL by the armed group.

Petrasek, David 2000: Ends and Means – Human Rights Approaches to Armed Groups. Geneva: International Council for Human Rights Policy.

http://www.ichrp.org/paper_files/105_p_01.pdf

This study provides a framework on how to reduce or end human rights abuses committed by armed groups. The report presents a list of actions that might be taken to influence NSAG, and evaluates their strengths and weaknesses. It is based on consultations with civil society and humanitarian groups working in ten countries. As such, it points to trends in human rights advocacy towards a more systematic denunciation of IHR violations by NSAG. The report discusses the key elements of violent, intra-state conflicts, like the character of armed groups, the role of the state and the capacity of the civil society. In order to avoid false generalizations about armed groups, a number of factors have to be considered, such as the aims and ideology, leadership, tolerance, military command and control, foreign sponsors and constituency of NSAG. The paper discusses two general approaches that can be undertaken by an organization dealing with armed groups that can be summarized as follows: 1) naming and shaming and 2) constructive engagement. The report also mentions the use of international criminal law as a third approach and points out the tension between human rights advocacy and conflict resolution. Finally, the study discusses some of the legal problems, notably, whether and how human rights law applies to NSAG. "Ends and means – human rights approaches to armed groups" is a pioneering study and constitutes one of the main points of reference in the international debate on NSAG.

Zeender, Greta 2005: Engaging Armed Non-State Actors on Internally Displaced Persons Protection. *Refugee Survey Quarterly*, Vol. 24, No. 3, 96-111.

<http://rsq.oxfordjournals.org/content/vol24/issue3/index.dtl>

This article discusses the strategies, which non-state armed actors have at hand to protect IDPs. NSAG can be reminded of their responsibilities toward civilian populations by referring to the Guiding Principles on Internal Displacement. Many actors, notably the UN, regional organizations and NGOs, have begun to engage with NSAG. The experiences of these organizations show that progress can be made, especially if the NSAG have control over a territory and seek international recognition. To clarify the responsibilities vis-à-vis IDPs and to promote the Guiding Principles present first steps towards better protection of the civilian population in intra-state conflicts.

Zegveld, Liesbeth 2002: *The Accountability of Armed Opposition Groups in International Law* (Series: Cambridge Studies in International and Comparative Law, No. 24), Cambridge: Cambridge University Press.

<http://www.cambridge.org/uk/catalogue/catalogue.asp?isbn=0521811309> (no download)

This book discusses the legal accountability of armed groups under international law. It is divided into two parts. Part one examines the applicable law to armed groups. The second

part deals with the problem of the “accountability gap”, referring to the widening gap between the rules of international law on paper and its effective enforcement against armed groups and their leaders in practice. It provides a far-reaching discussion of NSAG focusing on the legal arguments involved.

Peace Processes

Accord 2005: Choosing to Engage: Armed Groups and Peace Processes (Accord Series). London: Conciliation Resources.

<http://www.c-r.org/accord/engage/accord16/index.shtml>

This Accord series advocates for engaging with armed groups and highlights both the opportunities and challenges. While aiming at including broad and often contrasting views, the volume mirrors the different voices of state actors, academics, third parties and of the armed groups themselves. The publication is structured around five main thematic sections: 1) Understanding armed groups, 2) armed groups’ choices, 3) humanitarian and political engagement, 4) track one – track two interaction and 5) and the impact of asymmetries. Each section begins with an analytical overview which is followed by case studies. The volume is highly recommendable: It incorporates the most influential authors on the topic and their discussion mirrors very well today’s state of the art of the debate on “non-state armed groups and peace processes”. In the introduction, Robert Ricigliano, argues that since 11/9/2001, armed groups have been conceived in a different light and engaging with them has become much more controversial. There is an increasing tendency that in many violent conflicts ruling governments brands anyone as “terrorist” who radically opposes their policies. As a decisive antipole, the present volume advocates that engagement with NSAG is necessary. The fundamental question is not “should one engage or not?”, but rather “who should engage, with what group and about what issues?” It is argued that a distinction has to be made between track one (governmental) and track two (non-governmental) actors, and that each track has distinctive strategic advantages and disadvantages. Crucial is the meaningful communication and coherence between tracks one and two. Finally, a distinction is made between humanitarian and political engagement with non-state armed actors. With reference to Geneva Call’s work in Colombia, it is shown how humanitarian issues can positively affect political negotiations. The DoC is referred to as positive, constructive form of engagement with NSAG. By contrast, Ricigliano argues that isolation and sanctions can make an armed group less inclined or able to participate in a peace process and may strengthen hardliners.

Accord (2005a): Choosing to Engage: Armed Groups and Peace Processes. Policy Briefing Paper. London: Conciliation Resources.

<http://www.c-r.org/accord/engage/accord16/policypaper.shtml>

This policy paper was published in the context of the Accord series “Choosing to engage: armed groups and peace processes”. It outlines the key lessons emerging from the engagement of armed groups in peace processes. The key findings are the following ones: it is vital to achieve a greater commitment from all stakeholders to engage with armed groups, engagement tends to strengthen the pro-dialogue elements within armed groups, engage-

ment can take many forms (from loose and informal contacts to substantive negotiations), and the proscription of armed groups is often counterproductive.

Accord 2004: Engaging Armed Groups in Peace Processes – Joint Analysis Workshop Report. London: Conciliation Resources.

<http://www.c-r.org/accord/engage/resources/workshop.pdf>

This report is the outcome of an international workshop organized by Conciliation Resources that brought together representatives of armed groups, intermediaries, donor agencies and academics. It is argued that there is a need to better understand armed groups and their choices. To this end, more elaborated, analytical mechanisms for substantive communication and political approaches for a better understanding of armed groups, such as a typology, have to be developed. Humanitarian engagement has a potential to positively influence the political engagement. Furthermore, the point is made that the worldwide existing state system creates a bias towards state actors in intra-state conflicts. It is ill-equipped to respond to the challenges posed by non-state armed groups. This workshop report is a good summary of the main challenges of engaging with armed groups. It served as basis for the Accord series on “Choosing to engage: Armed Groups and Peace Processes” (see above).

Conciliation Resources 2006: Report on Wilton Park Conference WPS 05/34. Engagement of Armed Groups in Peace Processes (9.-11.12.2005) In Association with Conciliation Resources.

<http://www.c-r.org/our-work/accord/engaging-groups/events.php>

The report summarizes the international Wilton Parks Conference “Engagement of Armed Groups in Peace Processes” which took place in December 2005. The report summarizes the different experiences and lessons learned by governments, civil society and multi-lateral organizations dealing with non-state armed groups. It highlights the complex themes involved and the key challenges in ongoing and future forms of engagement with non-state armed groups.

McCartney, Clem 2004: Revolutionary and Agreed Change: Managing the Contradictions. London: Accord.

<http://www.c-r.org/accord/engage/resources/Clem.shtml>

Clem McCartney argues that the source of many misunderstandings and breakdowns of peace processes is often a contradiction between the “status quo ideology” of the government and the “revolutionary movement ideology” of the (armed) opposition. He examines the nature and implications of this dichotomy by referring to the peace processes in Sri Lanka and Northern Ireland. These differences in ideology between NSAG and governments become manifest in three areas: assumptions about conflict configuration, strategic choices and decision-making processes. McCartney suggests that a better understanding of the “ideology contradiction” between the government and the NSAG can serve as a basis for more effective third party intervention.

McKeon, Celia 2005: The Politics of Peacemaking. The Liberal: London. Issue IV

http://www.c-r.org/pubs/occ_papers/article_peacemaking.shtml

<http://www.theliberal.co.uk/>

Celia McKeon highlights the fact that while non-state armed groups are now at the heart of many armed conflicts, innovative and creative approaches for peacemaking are still sadly missing. She states that hard-won lessons of peace initiatives in several countries have not been implemented. Particularly, the nature of today's conflicts implies that a more serious commitment to the principles of inclusion and popular ownership is needed. Notably civil society and armed groups have to be included in the peace process. Attempts to ignore, excluding or eliminating NSAG usually lead to further violence. It has to be recognized that peace agreements have to be implemented at many decision-making levels, from the village to the governmental level in order to embrace the diversity of all official and unofficial actors and their interests.

Petrasek, David 2004: *Asymmetric Mediation: Armed Groups and Peace Processes*. Geneva: Centre for Humanitarian Dialogue.

<http://www.hdcentre.org/datastore/files/MNetwork/Background%20Paper%20two%20%20Asymmetric%20mediation.pdf>

This paper describes the key issues regarding mediation and armed groups, points out specific dilemmas and suggests concrete policy options. Petrasek underlines that while armed groups are an essential feature of contemporary armed conflict, surprisingly little policy analysis has been devoted to the challenges of their inclusion. This is especially true for the Track I mediators. The first part of the paper discusses the challenge of finding a unified and common definition of armed groups. In the light of the contradictory tendencies in international politics, Petrasek warns against offering a simplistic typology. He argues that while there is a growing need to engage with armed groups, the political space for doing so remains limited, particularly in the current international climate of the "War on Terror". Petrasek discusses important challenges which mediators face, such as the risk of being manipulated, taking sides, and legitimizing and rewarding armed groups and their use of violence. This paper is a to-the-point, interesting and coherent analysis of the challenges of armed groups.

Small arms, light weapons and landmines

Capie, David 2004: *Armed Groups, Weapons Availability and Misuse: An Overview of the Issues and Options for Action*. University of British Columbia, Vancouver: The Armed Groups Project.

<http://www.armedgroups.org/images/stories/pdfs/capiebamakopaper061004.pdf>

http://www.hdcentre.org/datastore/Armed_groups_briefing.pdf

The nature of violent conflict has changed, and non-state armed groups attract greater political attention than ever before. David Capie provides an overview of the links between non-state armed groups and small arms and light weapons. He discusses why it is important to focus specifically on armed groups in the context of small arms and light weapons. Reducing the proliferation and preventing the misuse of small arms and light weapons by NSAG remains a key challenge for the international community. The paper outlines various means, by which armed groups can obtain small arms and light weapons. Since it is practically not possible to control and eliminate the flow of all arms to non-state actors, it is critical to go beyond a supply-side approach to small arms. Capie concludes that the international commu-

nity should give NSAG a “window of opportunity” to express their willingness to be bound by humanitarian norms, and hence increase their respect for these rules.

Geneva Call 2005: A Global Report Profiling NSAs and Their Use, Acquisition, Production, Transfer and Stockpiling of Landmines. In: Armed Non-State Actors and Landmines (Vol. 1). Geneva: Geneva Call.

<http://www.genevacall.org/resources/testi-publications/gc-ansal-oct05.pdf>

This report launched at the “6th Meeting of States Parties to the Mine Ban Treaty in Zagreb” is a global analysis of NSAG and their use of landmines. It is investigated how non-state armed actors use, acquire, produce, transfer, and stockpile landmines. The report is structured in two parts: The first part maps out regional-specific characteristics of NSAG as well as global trends in the use of landmines. The second part provides a short profile of all the 60 NSAG that were identified by Geneva Call as mine users. This part is of particular interest as it also furnishes the reader with background information on the respective conflict contexts, objectives, areas of operation, leadership structures, military strength and support bases of NSAG.

Geneva Call (ed.) 2004: The Involvement of Armed Non-State Actors in the Landmine Problem: A Call for Action. Executive summary prepared by Anki Sjöberg for the Nairobi Summit on a Mine Free World, Geneva Call, Geneva (29 November - 3 December).

<http://www.genevacall.org/resources/testi-publications/gc-summary-04.pdf>

This executive summary conducts an analysis on how and why NSAG use landmines. The report covers the following issues: overview of NSAG mine use, the assumed reasons for their use, the different types of landmines, the frequency of their use, and the sources of mines. The report states that around 60 NSAG allegedly used landmines in 21 countries during the years 2003-2004. One of the key findings is that landmines are “the poor man’s weapons” as they are easily available and their costs are low. According to the report, NSAG mainly offensively use landmines with the aim of targeting agents of the state. Members of the NSAG are present at the time and the place of the landmine attack. Against this background, one may argue that for NSAG command-detonated landmines, which cause less long-term damages, could be an alternative. Another point raised, is that in light of the easy availability of self-manufactured explosives, a strategy that solely targets the supply side is not sufficient. It is crucial for the international community to engage the NSAG in a total ban on AP mines, as intended by the Geneva Call’s DoC. The report also underlines the region-specific variations, which have to be taken into account when choosing the most appropriate strategy for engagement. By systematically mapping the scope of mine use by NSAG, this executive summary helps to better understand armed groups’ rationale and logic.

Geneva Call 2004: An Inclusive Approach to Armed Non-State Actors and International Humanitarian Norms. Report to the First Meeting of signatories to Geneva Call’s Deed of Commitment, Geneva Call, Geneva (31 October - 2 November).

<http://www.genevacall.org/resources/testi-publications/gc-nsa-report-05.pdf>

The first meeting of signatories to Geneva Call’s DoC aimed to better understand the main challenges in engaging armed non-state actors in a ban on AP mines. The report summarizes the discussions that took place in four panel sessions. The first panel identified the following challenges for implementation: difficulties of upholding a commitment when oppo-

nents continue to use the landmines, the insufficiency of technical and financial resources, and the unstable security situation often prevailing in territories controlled by NSAG. The second panel discussed the various mechanisms for monitoring compliance. A problem that was identified is the lack of a solidified and transparent leadership and decision-making structure that makes the monitoring all the more difficult. The report refers to three types of possible monitoring mechanisms: assessing reports written by the NSAG themselves, third party monitoring and the field presence of Geneva Call staff. The third panel explored the arguments for and against expanding Geneva Call's mandate to other humanitarian norms. The participants of the meeting cautioned against the rapid expansion of Geneva Call's mandate. It should only be broadened if the human and financial resources increase considerably. The last panel discussed why and how a mine action (demining, victim assistance and mine-risk education) can act as an important confidence building measure between parties and enable "talks about the talks".

Stott, Noel 2004: Armed Non-State Actors in Africa and the Ban on Anti-Personnel Landmines. African Security Review, Vol. 13, No. 3.

<http://www.iss.co.za/pubs/ASR/13No3/FStott.htm>

Noel Stott briefly reflects on the importance of engaging with non-state armed actors. He argues that engaging with NSAG has been complicated by the "War on Terror" with NSAG being outlawed as "terrorists". Stott discusses Geneva Call's DoC as an innovative civil society mechanism and an important and impartial channel of communication with armed actors. It is stressed that African governments should play their role in the ban on AP mines by supporting anti-mine action and by directly engaging with NSAG.

The Swiss Campaign to Ban Landmines et al. 2000: Engaging Non-State Actors in a Landmine Ban: A Pioneering Conference. Full conference proceedings, Swiss Campaign to Ban Landmines et al., Geneva (24-25 March).

In March 2000, a number of national country campaigns of the "International Campaign to Ban Landmines" hosted a pioneering conference in Geneva. It was the first of its kind campaign with the aim to bring together representatives of NGOs, academic institutions, governments and non-state armed actors and to discuss the issue of engaging NSAG in a worldwide landmine ban. This conference publication fully documents the proceedings of the conference that established the framework for engaging non-state actors in a ban on anti-personnel landmines. It includes the legal and normative framework, views from the ground, NSAG perspectives, state perspectives, tools for and principles of engagement, recommendations from the conference organizers, and selected statements by NSAG. See also <http://www.genevacall.org/resources/testi-publications/gc-24mar00-nsa.pdf> for the summary proceedings of the conference.

International Legal Documents

Common Article 3 of the Geneva Conventions (1949)

<http://www.icrc.org/ihl.nsf/WebCONVPRES?OpenView>

Common Article 3 sets out the core humanitarian norms applying to “armed conflicts not of an international character”. It calls for the humane treatment of non-combatants and prohibits killing, torture, taking of hostages and unfair trial. Article 3 (3) envisages special agreements between states and armed groups, which provide added incentive to comply with IHL based on mutual consent of the parties.

Deed of Commitment under Geneva Call for Adherence to a Total Ban on Anti-Personnel Mines and for Cooperation in Mine Action (2000)

<http://www.genevacall.org/about/testi-mission/gc-deed-of-commitment.pdf>

Through the Deed of Commitment, non-state armed groups can adhere to the mine ban. By signing the document, they commit themselves – among other things – to a total prohibition on the use, production, acquisition, transfer and stockpiling of AP mines. Moreover they have the obligation to make efforts to destroy stockpiles and clear mines, and to cooperate in monitoring their commitments by Geneva Call. To date, 28 armed groups have agreed to ban AP mines through this mechanism.

Guiding Principles on Internal Displacement (1998)

http://www.reliefweb.int/ocha_ol/pub/idp_gp/idp.html

There is no single international legal instrument that sets out the rights of the IDPs. The Guiding Principles on Internal Displacement are based on IHL and IHR: They include statements of international humanitarian law that are legally binding both on states and NSAG. They also refer to human rights provisions relevant for IDPs, which bind states, but not explicitly non-state armed groups. The Guiding Principles provide valuable practical guidance for those who are dealing with IDPs.

Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict (2000)

<http://www.ohchr.org/english/law/crc-conflict.htm>

The treaty affirms that nobody under the age of 18 shall participate in violent hostilities. The Optional Protocol states clearly in its article 4 that armed groups “should not, under any circumstances, recruit or use in hostilities persons under the age of 18 years”. However, article 4 reflects the traditional state-centric view of the international legal order. NSAG are not party to that protocol and its rules only apply indirectly to them.

Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II) (8 June 1977)

<http://www.icrc.org/ihl.nsf/FULL/475?OpenDocument>

Protocol II expands the protection of victims in intra-state armed conflicts offered by Common Article 3. The rules only apply to conflicts between a government’s armed forces “[...] and dissident armed forces or other organized armed groups which, under responsible

command, exercise such control over a part of its territory as to enable them to carry out sustained and concerted military operations and to implement this Protocol.” (Art.1(1)) The conditions of the applications of the Protocol II are stricter than by article 3. Yet, once applied the Protocol offers a wider protection than common article 3.

Rome Statute of the International Criminal Court (1998)

<http://www.un.org/law/icc/statute/romefra.htm>

While referring to “a military commander or person effectively acting as a military commander”, Article 28(a) stresses that international criminal law applies to leaders of non-state armed groups as well.

Report of the Secretary-General to the Security Council on the Protection of Civilians in Armed Conflict S/2004/431 (2004)

<http://www.un.org/Docs/journal/asp/ws.asp?m=S/2004/431>

Paragraphs 41 and 42 deal with the responsibility of non-state armed groups to protect civilians in armed conflicts. The Secretary-General affirms that “promoting respect for humanitarian assistance to populations in areas under the control of armed groups require dialogue with those groups.” The report argues that “the designation of certain non-State armed groups as terrorist organizations has had an adverse impact on opportunities for humanitarian negotiations”.

UN Security Council Resolution 1261 (1999), 1265 (1999) and 1296 (2000), 1612 (2005)

<http://www.un.org/documents/scres.htm>

The Resolutions 1261, 1265 and 1296 reflect the political will of the Security Council to deal directly with NSAG. They avoid speaking of non-state armed groups and refer to “all parties to conflict”. The Resolution 1612 calls for a monitoring and reporting mechanism to record grave human rights violations committed against children in armed conflicts.