

## Non- State Actors and Their Significance

**Non-State Actors must be involved in any considerations about reducing the use of landmines, a mission which the Non-State Actors Working Group has set out to accomplish**

by Margaret Busé, *Editor*

Despite the spectacular high-tech nature of combat technology, most armed conflicts are fought on foot using low technology methods of guerilla warfare. Anti-personnel mines, manufactured by state and non-state parties are frequently used in counter insurgency warfare, a type of warfare that threatens the global landscape today. The mines victimize combatants and non-combatants without discrimination. Landmines are inherently indiscriminate weapons, making them ideal to instill terror in a local community. This is especially significant in counterinsurgency warfare and the patrolling, ground-fighting, area denial and terror tactics commonly used by Non-State Actors (NSAs) and terrorist groups. Landmines deny access to land and infrastructure, increase the difficulty of survival and impede post-war recovery and long-term development. By destroying the social fabric, landmines impede the peace process.



The majority of wars fought in the later half of the twentieth century, and that are currently being fought, involve non-state, anti-state or stateless actors outside the control of states or governments recognized by the United Nations. The Non-State Actors Working Group (NSAWG) of the International Campaign to Ban Landmines (ICBL) states that in "every region in armed conflict today, AP mines are found in armories of non-state groups. AP mines are frequently used more often by non-state actors than states." Also, the experience of many Non-Government Organizations (NGO's) is that non-state actors often use improvised landmines, which are usually more dangerous and volatile than commercial landmines. Landmines have been and continue to be produced and used not only by state forces but also by non-state groups, drug cartels, and factions including local communities protecting their livelihoods.

### Non-State Actors (NSAs): Who Are They?

Conflicts in the world today often involve armed opposition groups who act autonomously from recognized government. Included in this category are rebel groups, irregular armed groups, insurgents, dissident armed forces, guerillas, liberation movements, freedom fighters and de facto territorial governing bodies. The NSAWG believes there are about 190 *recognized* non-state actors. This does not include farmers, drug cartels and many of the smaller loosely organized NSAs. Ideology, objectives, strategies, level of organization, support base, legitimacy and degree of international recognition vary greatly. Terrorist groups can be defined as organizations that commit violent acts that seemingly have no purpose other than to inflict terror among the civilian population. The acts of violence are not directed at military troops or other military targets. They are not for defense. The purpose of the acts of violence is to disrupt the social fabric by creating a high level of fear among the civilian population. A NSA may or may not be considered a terrorist group. The groups that fall under the NSA heading can vary greatly. The NSAWG defines them as "organizations with less than full international recognition as a government who employ a military strategy."

### NSAs and Landmine Deployment

NSAs differ from states in their method of deployment of landmines. States are usually defending a position, denying an area or disrupting an opposing force. NSAs usually use landmines offensively to disrupt social, economic and political operations. Because they are

often using landmines to terrorize they are more likely to position landmines in places around schools, trodden paths, wells, etc. Because of indiscriminate placement there are rarely well kept mine records or mine field maps. Landmines may also not be laid in a conventional pattern. It is a soldiers' memory and a community's victims that have to serve as starting points for clearance operations.

An Afghan soldier who had fought in the war against the former USSR told the *Frontier Post* that countless numbers of Taliban troops are trained in guerrilla war strategies and that he is an expert in making landmines and is assigned to manufacturing and laying mines in Afghanistan. He also asserted that the current landmine contamination has contributed to Mullah Muhammad Omar and Osama bin Laden's safety. For the Northern Alliance to capture Kabul, they must breach intense fortification of the city by landmines and trenches.

In Turkey, Human Rights Watch noted that neither the soldiers nor the guerrillas of the Kurdistan Workers Party (PKK) could remember where many of their mines lie buried. During the clashes, troops from various parts of Turkey were deployed in the area and mined the surroundings of settlements to cut the logistical support of PKK fighters. They later went back to their original bases with the landmine maps, "or the maps were lost." Consequently, there remain an unknown number of landmines on the routes that would be used by Kurdistan refugees. In Angola, in many areas already identified as mine areas, warning signs had been placed, but the UNITA rebels had been removing them.

Mines, anti-personnel mines in particular, have been and continue to be used and produced by non-state groups. Because of the difficulty in monitoring compliance in landmine use, it is questionable if they will ever be completely removed from modern warfare, like nuclear weapons. The often repeated phrase, "mines are the weapon of the poor," especially holds true for NSAs. It is much easier to purchase or improvise a landmine than it is to get the materials for a nuclear bomb. Mines are the weapons of the poor not only in the sense of being affordable, but also in the sense that they primarily target the poor and impoverish the community long after a cease-fire has been attained.

Because of the ease of construction and affordability, NSAs often improvise landmines. These may be more dangerous than commercial mines because they have a tendency to be highly unpredictable and unsafe to handle. The relative damage caused by these mines — to the combatants themselves and to official or unofficial deminers — has the possibility of being greater than that of the regular mines to which states have access.

### **The Non State Actors Working Group (NSAWG)**

The NSAWG was established by country campaigns of the International Campaign to Ban Landmines (ICBL) to address the need to develop relationships with NSAs. The NSAWG maintains a database on NSAs and promotes and disseminates their accumulated research on NSAs and landmines. They are breaking important ground in engaging NSAs in a dialogue. That this dialogue is about landmine use is almost secondary. Because of the Working Groups (WGs) impartiality, work on the community level, and the level of trust they have among NSAs, the WG has a pivotal role to play when it comes to understanding insurgent groups, how to engage them and draw them into the political arena for a dialogue, and how to get them to adhere to a basic humanitarian code of conduct through the landmine issue.

Some states that are currently in power and use landmines began to do so while they were still non-state groups fighting for power. A primary and legitimate reason that a number of states have linked their own refusal to renounce anti-personnel mines has

to do with the use of mines by the non-state groups. At the core of the landmine use issue is how to monitor compliance. It is critical to remember that many insurgent groups using landmines are not in a declared war and most of the conflicts they are fighting are internal.

### **Root Causes of Landmine Use**

#### **Taliban Declaration**

Statement of the Islamic Emirate of Afghanistan on the Problem of Landmines issued by the Office of the Emirate with the signature and seal of Taliban supreme leader Mullah Mohammad Omer Akhund:

As Allah Almighty has made Human being his

An uncomfortable but necessary action is to representative on the Earth, both his life and regard the conditions that have lead to the death are regarded with much respect in renewed, continued use or initial use of Islam. God Almighty teaches us in the holy landmines. There will be no end to the violence Quran : Whosoever killeth a human being for that results in landmine use unless there is a other than man-slaughter or corruption in recovery socially, economically and politically. the earth, it shall be as if he had killed all Demining is a band — aid in a country still in mankind, and whose saveth the life of one, it conflict and must be carried out with other shall be as if he saved the life of all mankind infrastructure development plans that contribute ... to a healthy country. Thomas Gebauer points out that, "Peace does not follow a plan that most donors look for... What is required is sensitive aid and long-term engagement. Without the recovery of a healthy social fabric, there will be no reintegration, no peace, no end to the violence."

**See additional story: Afghanistan NSAs and their Operating Environment**

### International Conventions and Treaties

The United Nations Small Arms Conference, The Managua Declaration and the European Parliament Resolution demonstrated the international community's efforts to affect the fight against terrorism, address landmine use and hopefully, have a tremendous impact on all disarmament efforts. Unfortunately, many of these treaties ask for commitments from groups that are not bound or are operating externally from the governing laws of their own countries. Their interpretations of laws may be different from the originating law making body. Many groups do not follow the laws of civil secular society and interpret laws from religious documents.

It appears transparent that all combatants, regardless of country of operation, religious or political affiliation, are capable of understanding that it is illogical to make the land they are fighting for unusable. Unfortunately, the goals are not clear-cut in guerilla warfare. This is a game where the rules change as you play and the immediate goal may be to secure one strategic point, or disrupt the living conditions of a local population. Internal conflicts, by their very nature, are fought among, with, and alongside the civilian population. An armed opposition group's goal of freedom, however that may be interpreted, may be fought at all costs, landmine use included.

If a state is a signatory to an agreement, all entities and individuals within the state are also bound, including NSAs operating within that state, (whether they like that idea or not.) Violations of such agreements compel or mandate prosecution by international tribunals. Where NSAs have been found to violate a treaty, they can then be prosecuted. The problem:

- The treaty must provide for criminal penalties.
- The language of the treaty must be clear and unequivocal. It is highly unlikely that there can be a successful prosecution where the violation is based on vague and/or ambiguous language.
- What if the state in which the NSA operates is not a signatory?
- How and who will monitor compliance?
- What will be used as credible evidence?

The NSAWG launched the Geneva Call, which advocates the adherence of NSAs to a total ban on AP mines as well as adherence to other 'humanitarian norms'. It also provides for a method of accountability for their commitments. According to Elisabeth Reusse-Decrey, co-chair of the NSAWG and President of the Geneva Call, "It hopes to fill a gap in the international legal regime whereby NSAs, who by definition cannot adhere to or be part of international treaties."

The NSAs would sign a "Deed of Commitment for Adherence to a Total Ban on Anti-Personnel

Mines and for Cooperation in Mine Action", which would then be maintained by the authorities of the Republic and Canton of Geneva. Providing reports, field inspections and visits would monitor their commitment. This "soft approach" appeals to a sense of what is right and wrong from a humanitarian perspective. Because of the very nature of the types of wars NSAs are fighting, they may not be able to adhere to a total deed of commitment. It is hoped that they could at least commit to not targeting wells, schools, playgrounds, medical centers and other necessities for civilian survival.

Numerous international conventions, regional agreements, bilateral treaties and even unilateral policies should seek to enhance security between states and reduce tensions. Effective arms control measures can only be achieved and sustained in a region where wars, armed conflicts, terror, political hostility and incitement are not features of everyday life.

The political reality of many of the countries affected by landmines mandates a practical step-by-step approach, culminating in a comprehensive peace or at the very least eventual establishment of a mutually verifiable zone free of landmines and other weapons of war. Once an area is declared a mine-free zone, violators *may* be prosecuted.

The program of action adopted at the United Nations Small Arms Conference was an important point of departure, even though it did not provide resources for implementation, nor have provisions against the transfer of small arms to non-State actors. The Angolan representative underscored the close and complex link between terrorism, organized crime, drug trafficking and the illegal exploitation of natural resources, illegal trafficking and easy availability of small arms and light weapons. Despite United Nations' efforts, those weapons directly affect everyday lives, more so than weapons of mass destruction. Small arms continue to land in the hands of terrorist groups, rebels and other NSAs.

"Rebel groups, by their very nature, reject some laws. However, there is a difference between rejecting some laws and all laws. International human rights and humanitarian law set out basic norms accepted by all humanity whether in peace or war, whether the conflict is internal or international.... The value of these norms has to be relearned with each armed conflict. However, the norms themselves do not have to be reinvented. Once armed opposition groups accept the applicability of these norms, it becomes possible to compare their behavior with their statements.... the non-governmental community can compare what armed opposition groups have said, through their acceptances and acknowledgements with what they do." - NSAWG

At the same time, the proliferation of these small arms must be viewed from a total viewpoint of arms control and disarmament, post-conflict peace building, conflict prevention and socio-economic development. In conflict situations, the problem should be viewed comprehensively in the framework of demobilization and reintegration of ex-combatants.

Though armed opposition groups cannot sign on to international treaties, they can sign on to domestic treaties, be it peace treaties or cease-fire agreements with the government forces they have been fighting. These treaties can and should incorporate human rights and humanitarian norms, including a landmine use policy. The NSAWG advocates this approach because "acceptance of human rights and humanitarian norms, whether before or during the negotiation of domestic treaties, is a confidence building measure, which assists the peaceful settlement of disputes."

### **Why Should We Address Non-State Actors?**

The dynamics of terror and the significance of NSAs require a global perspective or whole earth philosophy. NSAs are now addressing the whole globe when fighting their cause, not just their country of origin. The terror some NSAs are able to inflict does not take issue with people's politics; it assails their very existence by using intimidation and chaos as weapons. The international community must now address a "profound and unequivocal" challenge to global stability that is being orchestrated by groups that many civilians are not even familiar with. For all countries, the new global reality adds another complex dimension to regional stability. Landmines are one of many intense combinations of threats across the spectrum of internal stability.

The primary reasons for approaching non-state actors is not just for adherence or compliance with landmine use as terrorism against civilians. The real reason to engage insurgent groups is to bring them into the political arena in a legitimate way. By opening a dialogue with insurgent groups, the isolation in which they operate in is removed. By being given a voice, they are less likely to choose obliteration or belligerence and risk silencing that voice in the international political arena. The NSAWG understands this concept of self-preservation and has developed a framework of approach for insurgent groups.

The mine action community can attest to the annual Landmine Monitor report for its excellent landmine information. The NSAWG utilizes the same standard of excellence in organizing its NSA database. The WGs approach to a non-state actor will be developed in consultation with the affected communities. Engaging NSAs in the landmine issue provides the context for engagement in the conflict resolution and peace building process. The landmine problem becomes the jumping off point for the larger problems of peace building and infrastructure development. Again, it must be noted that there are some NSAs who cannot be engaged because of ideological or belligerent views. A dialogue can only be based on common goals or principles and if this is absent, nothing can be accomplished. NSAs in this category should be publicly pressured and denounced and thereby lose any legitimacy or sympathies they may have gained.

In this rapidly changing world, insurgent groups come to power, become state actors, disappear from the world map, are absorbed into other political parties, or operate, but are not claimed by legitimate political parties that are actively supporting them. Many NSAs are a surrogate force of the state itself or of another state. In both cases, approaching the surrogate group could prove a productive means of engaging the state party itself. Some rebel groups may eventually become governments or are already de facto governments in areas under their control. To engage them would enable networks of trust and accountability to be built upon.

Because many different NSAs operating in various countries may be linked by ideological or religious vision, engaging with one in the peace-building process may open the door for engaging other groups that share a similar vision. As has occurred in many countries, once peace is restored many NSAs have been called on to assist demining in areas under their control or work within their communities in the mine action field.

There are a number of tested precedents for post-war non-state involvement in humanitarian mine action. In Central America, the conflict settlement allowed for major non-state parties in El Salvador and Nicaragua and subsequently Guatemala, to acknowledge a regional mine problem and join the demining effort as demobilized personnel. The involvement of demobilized irregular combatants in demining work in Namibia, Mozambique and Zimbabwe is well known.

Some NSAs have acknowledged the need to reconsider their use of landmines. Unilateral statements and bilateral agreements with clear references to mines have been made by non-state armed groups to the ICBL in Sudan, the Philippines, Somalia, Colombia, Western Sahara, Kosovo/Yugoslavia and Afghanistan, among others. Some of these groups have already publicly committed themselves to a ban on landmine use. Others have indicated their willingness to make a renunciation of mines, contingent on their opponent governments doing the same. Still others appear willing to support mine clearance and victim assistance programs in areas under their control. While the ICBL sees this as a promising development for their cause it can also be viewed as an attempt by NSAs to integrate into the global political arena.

Engaging NSAs through a persuasive and inclusive process of dialogue and education, appealing to appropriate legal and normative reference points and to political self-interest can be viewed as one attempt to curtail their power and use of weaponry- landmines included. In the aftermath of September 11<sup>th</sup>, views across the globe have radically changed towards NSAs. For many NSAs that are belligerent, the view must be broadened from curtailing their use of landmines to curtailing their power completely. This, however, may not solve the problem but create the isolation and martyrdom that many of these groups thrive in.

The NSA Working Group believes that, wherever possible, NSAs must be approached in consultation with the communities affected. Careful attention must be given to the political context and to the impact of landmine work on other initiatives aimed at establishing a just and

Because the norms are there, we can

lasting peace.

### Conclusion

The plight of mine-afflicted communities is not neatly distinguishable from communities inflicted with war and impoverishment. It is war and impoverishment that set the foundation for militant and radical NSAs to gain momentum and a loyal following. While governments, donors and NGOs can undertake humanitarian demining and integrated mine action plans, it is often politically and economically impossible for mine action organizations to address the root causes of the impoverishment and conflict. This is the very factor that directly or indirectly paves the way for the proliferation of NSAs and the wars that go with them.

avoid the horrors and tragedies of past armed conflicts. We need only to pay attention to the experience of the past encapsulated in existing human rights and humanitarian norms. Communicating human rights and humanitarian norms to the parties in an armed conflict is nothing less than communicating the wisdom of civilization accumulated from the depths of past human suffering. - David Matas

### Sources

Jane's Intelligence Review  
 Jane's Intelligence Digest  
 Reuters  
 Landmine Monitor 2000  
 Landmine Monitor 2001  
 "Tools of Engagement on NSAs in the landmine ban"- David Matas  
 "The Ottawa Treaty and NSAs"-Soliman M. Santos Jr.  
 Report from the NSAWG, March 1998-March1999  
 "The International Criminal Court and Rebel Groups" Soliman M. Santos, Jr  
 "Building a Social Transformation Perspective for Mine Action Programs"-Alejandro Bendada  
 "Mine Action in the Context of Social Integration"-Thomas Gebauer  
 ICBL NSAWG Information Paper "The Use of Landmines by NSAs"  
 NSAWG Database

### Contact Information

Margaret Busé  
 MAIC  
 1 Court Square  
 Harrisonburg, VA 22807  
 E-mail: [maic@jmu.edu](mailto:maic@jmu.edu)