

Talking to armed groups

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To persuade fighters to respect the rules of warfare, one must understand why violations occur, how armed groups operate, what can be done to prevent violations and how to engage in dialogue with these groups. This article reflects the ICRC's many years of experience in this area.

Forced displacement can be lawful under international humanitarian law (IHL) if it makes a community safer or if imperative military reasons require it. However, in most cases people leave their homes because one or both sides to a conflict has been violating IHL. When a community experiences or fears murder, rape, kidnapping, destruction of their homes or looting, flight is a natural reaction.

All parties to an armed conflict – including armed groups – can either prevent or facilitate the perpetration of IHL violations that affect civilians in general and displaced communities in particular. It is by no means the case that the highest levels of violations are always perpetrated by armed groups but when armed groups' actions do facilitate violations, they usually stem from group decisions rather than personal initiatives. Beyond their potential for violations, armed groups also have the potential to protect residents and displaced alike.

Helping the victims of IHL violations is essential but it is equally important to act ahead of

time to try to prevent violations that will trigger displacement or cause further suffering to people who are already vulnerable. A number of humanitarian organisations seek to prevent such violations when they talk to members of armed groups about the need to protect displaced persons and civilians in general. But how can we ensure that this kind of dialogue achieves the desired result?

The dynamics of violations

If one is to influence patterns of violations that affect displaced people, rather than simply prevent individual incidents, one must understand how and why such patterns arise. Violations of IHL involve social and individual processes and require a degree of moral disengagement. These phenomena become possible when groups and individuals find ways of justifying behaviour that they would previously have considered unacceptable and when, at the same time, their leaders abdicate their responsibilities. More specifically, the leadership of an armed group may condone or order violations of the rules of warfare, or allow them to occur.

A group generally allows violations to occur when its command and control system is weak. Reasons why this can occur include small units operating in isolation, fighters under the influence of drugs, and unclear orders. Alternatively – or in addition – the perpetrators of violations may quite simply not know the law. While ignorance of the law is no defence in legal terms, we must recognise that it is sometimes a genuine reason.

A group condones violations when its leadership knows that its fighters are violating the rules of war but does nothing to prevent such acts or punish the perpetrators. This may happen because the leadership is afraid that fighters will defect to another, less scrupulous faction if it acts to prevent or punish violations. Leaders may also condone violations as an explicit means of rewarding or paying fighters, or when such actions are deemed acceptable in a given culture, as may be the case with looting.

A group may commit violations as a method of warfare. This can happen when fighters believe their survival to be at stake, when their actual aim is in itself a war crime such as genocide, when they make the strategic choice to protect their own fighters at all costs or when they use violence or terror to control populations or territory. A group may also commit violations as a show of force or in retaliation, and as a means of passing a powerful message to the enemy.

Armed groups cover a wide spectrum. While some may be little more than mobs brought together by circumstances, others control tens of thousands of fighters. Many armed groups administer substantial financial resources – they can often outspend NGOs – and their leaders may be highly educated. Because armed groups are structured organisations, they are capable of taking decisions which affect the behaviour of their members, who are under pressure to conform and to follow orders. However imperfect or weak these organisations may be, they have



A Geneva Call fact-finding team investigating allegations of mine use in the Philippines in a meeting with representatives of the Moro Islamic Liberation Front.



ICRC dissemination session for Sudanese Liberation Army combatants in Durum, Darfur.

more power over their fighters than any humanitarian worker has.

Limiting violations

Armed groups adopt political and policy measures. Some of these decisions can help to prevent displacement, reduce the duration of displacement if it occurs, or reduce the incidence of other violations against communities.

Political measures at the group's highest level, together with policy decisions on doctrine, education, training and sanctions, are likely to have a significant impact, as they can make violations more or less likely. But even if the senior leadership takes the 'right' decisions, this will not necessarily bring violations to a complete halt, as individual fighters and commanders retain a measure of independence. No decision will magically prevent people joining an armed group in order to fill their pockets, nor will it prevent those with psychological problems from committing violations. However, decisions and orders from the highest levels of an armed group will influence the behaviour of the vast majority of commanders and fighters.

The most common approach to preventing violations is to demand that all fighters respect a code of conduct setting out the rules that the leaders consider essential. The most famous example is the Chinese

Maoist Three Rules and Eight Remarks, often used by other like-minded movements. This document expressly forbids looting and theft from the population, extortion, ill-treatment of the population, sexual violence against women and ill-treatment of captives.

Another example is that of the Mouvement des Nigériens pour la Justice (MNJ). During the 2007-09 Niger conflict, all MNJ recruits were required to swear an oath on the Qur'an that included not harming civilians or damaging their possessions.

There are real opportunities for humanitarians to have a positive impact on such measures by persuading armed groups to adopt policies that are compatible with internationally recognised standards.

How to persuade

Some years ago, in the Republic of the Congo, an ICRC delegate gave an IHL lecture to a group of militiamen. One of the points he made was about the importance of not looting. The group responded positively to the presentation – but the next week, these same people looted the aid that ICRC had distributed.

What went wrong? Many humanitarians have discovered to their dismay that merely explaining IHL or taking the moral high ground

does not necessarily make parties to a conflict 'see the light' and change their ways. Telling decision-makers and commanders about legal standards is essential but one must back this up with persuasive arguments that show such standards to be relevant to the persons able to take decisions and give orders. This is especially true given the perception among many commanders that IHL is "law defined by states and violated by the same" (comment by a commander to the author in 2009).

As in most organisations, the armed group does limit the individual's independence. However, individuals never lose their independence entirely, and most will find themselves in situations where they can take decisions on their own. This is true for individual fighters who often have the choice of allowing safe passage to displaced people at a checkpoint or robbing them of their few belongings. It is even truer at the level of commanders and the political leadership, where individuals give orders that affect the behaviour of their subordinates. Recognising a particular individual's margin for independent action is important, as is understanding how to adapt arguments to persuade the person in front of us that what we are saying is specifically relevant to them.

Persuasion can be greatly improved if humanitarians follow three principles:

- Take time to discuss.
- First sow doubt rather than try to convince.
- Appeal to the other person's self-image.

Taking time to discuss is a precondition for successful persuasion. This means both parties exchanging ideas and asking questions, and involves the humanitarian worker listening. Persuasion is not a quick and easy process; it works by building a case over time, sometimes over months. It is folly to think that a commander who has been fighting a certain way for months or years will change his or her ways after a single meeting. It is also unrealistic to expect that a seasoned commander will have no opinion and will accept

our position without debate. Asking questions is often more effective than stating a position.

Rather than attempt to convince the other person outright, the humanitarian's first goal should be to sow doubt. Once our contact starts to doubt the rightness of their current practices, it may become possible to find pragmatic solutions. Such solutions may initially fall short of complete compliance with the law, yet still constitute an improvement in the situation. For instance, if we can remind a commander that child soldiers represent a command and control problem in military terms (which they do), he or she may be more open to discussing the demobilisation of some child soldiers or an end to the recruitment of children in IDP camps.

Flexibility is essential. An all-or-nothing approach usually ends up with nothing. Clearly, humanitarian workers should not compromise on international standards but agreement on less contentious issues may open the door to discussion on more difficult topics.

Appealing to the group's self-image is a powerful lever when attempting to bring about a change in behaviour. Few members of armed groups see themselves as war criminals serving an unworthy end; most consider themselves to be part of a decent group, fighting for a noble cause. Emphasising this aspect and using arguments that appeal to their convictions may go a long way. Even if a group intends to commit atrocities, an appeal to their honour as warriors may help ensure safe passage for the wounded, for the elderly or for women. However, humanitarians must be aware of the dilemmas inherent in discussing such a choice.

Some useful arguments

Arguments are contextual to each situation and must be used creatively; no one argument will be effective in all cases. Using a range of arguments is usually more effective, if only because it helps establish the credibility of the person who is defending certain humanitarian standards. The most common arguments that the ICRC

has found useful in discussions with armed groups relate to:

Beliefs: Members of armed groups have moral, religious and/or political beliefs, and these often constitute an incentive to respect at least some aspects of IHL. For instance, the SPLM in southern Sudan decided to clamp down on violations when they realised that their fighters were harming the very population for which the movement claimed to be fighting. One can appeal to these beliefs by showing genuine interest and a willingness to understand, and by asking the other person to explain apparent contradictions.

The group's own policy: Appealing to a unilateral declaration made by the group, a code of conduct or any other policy document can provide powerful arguments.

Military necessity: Military principles such as economy of effort, preservation of the economic basis and maintenance of popular support ('hearts and minds') can also provide convincing arguments in favour of compliance with the principles of IHL.

Humanity: Victims of IHL violations are human beings. Anyone can be reminded of their family and friends, and of how they would feel if they were harmed in the way they are harming others. Such an appeal to a shared human identity can be very powerful.

Respectability in the eyes of the outside world: Many groups want to project a positive image abroad and are sensitive to arguments related to the harm they will do their cause if they commit violations. For instance, a number of Burmese groups issued directives prohibiting the recruitment of children after they realised that they were on – or were about to be put on – the list annexed to the UN Secretary General's report on children and armed conflict.¹

Legal: Pointing out that an action is illegal may get the attention of groups who position themselves as law-abiding, or who want to take the legal high ground.

International prosecution: Where international prosecution

is looming, compliance with IHL can be presented as a way for individuals to protect themselves; an international inquiry usually triggers much interest in these standards. However, this argument may backfire badly if the humanitarian is suspected of collecting evidence for a future prosecution.

None of these arguments is an answer to all objections; using the right combination of arguments at the right time may help the other person to re-think their position, and may prompt them to doubt their initial stance. But this requires that the humanitarian really masters the arguments and does not repeat them mechanically; being on the receiving end of simplistic 'truths' is amusing at best.

Conclusion

While communication skills, knowledge of the dynamics of armed groups and an open mind are important, the crucial element is credibility.

Credibility comes both from the individual's knowledge and experience and from their organisation's performance in the context. One can discredit oneself very quickly by using arguments based on a wrong understanding of the armed group and its functioning, of the cultural and conflictual context, of the humanitarian issues or of the implications of the law for military reality. Humanitarians can also be discredited by a discrepancy (even a perceived discrepancy) between what their organisation says and what it actually does. Armed groups often watch the provision of assistance to displaced communities very closely; in some cases these communities will include their own families. Ultimately, much depends on whether an armed group is open to persuasion. But when this is the case, without credibility even the humanitarian's best arguments will fall on deaf ears.

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1. Online at: <http://tinyurl.com/SecurityCouncil13April2010>