

the UN Secretary-General to file a complaint, but only when the alleged violation affects peacekeepers under his control.

40. A modest states-plus mechanism is recommended by the fact that, while limiting the scope for frivolous or nuisance complaints, it avoids the potential paralysis of the strictly states-based system (see below).

#### D. A States-Based Mechanism

41. A second alternative to a broad-based triggering mechanism is a states-based one that would permit only states to initiate an inquiry. Broadly speaking, there are four basic variants of the states-based approach. Each would grant standing to initiate an inquiry to a different type of state party. The different types are:

- States Parties to the Convention that are belligerents;
- States Parties that are non-belligerents;
- Any state that is a belligerent, including non-Parties;
- Any state (Party to the CCW Convention or not, belligerent or not).

42. There are problems with all four of these variants that reduce their potential effectiveness in the CCW context. With respect to arrangements where only belligerent have standing, a verification regime would likely become highly adversarial as allegations and counter-allegations were levelled against the backdrop of armed hostilities.

43. Where all states have standing to initiate inquiries there are also potential problems. At one level, this approach is attractive in that it assigns a "watchdog" role to the international community. In practice, however, the experience of international humanitarian and human rights law suggest that states are very reluctant to lodge complaints against other states, except where it serves some specific domestic or foreign policy interest. No inter-state case, for example, has ever been brought before the International Covenant on Civil and Political Rights; and only two cases have ever been brought by states before the European Commission of Human Rights.

44. In all four versions of states-based triggering mechanisms, the traditional reluctance of states to lodge complaints may be exacerbated in the context of a future CCW Convention which evolves to cover non-international conflicts. Widespread sensitivity regarding interference in the internal affairs of sovereign states, coupled with the legal and customary prohibitions against such interference, would likely render the incidence of states-based inquiries extremely low.