

The Collected Courses of the Academy of European Law

Series Editors: Professor Gráinne de Búrca,
Professor Bruno de Witte, and
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*European University Institute,
Florence*

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Human Rights Obligations of Non-State Actors

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7.5.2 Geneva Call

‘Geneva Call is an international humanitarian organisation dedicated to engaging armed non-state actors (NSAs) to respect and to adhere to humanitarian norms, starting with the ban on antipersonnel (AP) mines.’⁸⁴ The centre-piece of its approach involves the relevant non-state actors signing a ‘Deed of Commitment for Adherence to a Total Ban on Anti-Personnel Mines and for Cooperation in Mine Action’. Non-state actors are not currently entitled to sign the Ottawa Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction. In fact, unlike the provisions of the 1977 Protocol I to the Geneva Conventions⁸⁵ and the 1980 Convention on Prohibitions or Restrictions on the Use of Certain Weapons Which May be Deemed to be Excessively Injurious or to Have Indiscriminate Effects,⁸⁶ the Ottawa Convention contains no provision for a declaration expressing a willingness to be bound from even the narrow category of authorities representing a people ‘fighting against colonial domination and alien occupation and against racist regimes in the exercise of their right of self-determination’.⁸⁷

During the negotiations for the Ottawa Convention it was in fact proposed by Colombia that the treaty include a provision regulating armed opposition groups, however, no provision was included in the main body of the treaty. Similarly, nothing came of the proposal by the International Campaign to Ban Landmines to bind all parties to a conflict involving a state party, as well as all persons and entities in the territory of a state party during peacetime.⁸⁸ It has been suggested

⁸³ Ibid, para. 4 (emphasis added). The Commitments to the SRSG are listed together with comments concerning compliance at <http://www.un.org/special-rep/children-armed-conflict/English/Commitments.html>. As of 20 July 2005, the following commitments from non-state actors were listed: The Sudan People’s Liberation Movement gave its commitment not to use anti-personnel Landmines in the southern conflict zone; During the 1998 visit to Sierra Leone, the Civil Defense Forces committed itself to stop recruiting children under the age of 18. This commitment was reiterated in the Lomé Peace Accord and in the Human Rights Manifesto; the Revolutionary United Front committed itself to stop recruitment of children under the age of 18; in Sri Lanka the Liberation Tigers of Tamil Eelam (LTTE) leadership made a commitment not to use children below 18 in combat, and not to recruit children below the age of 17; the LTTE pledged not to impede the return to their homes of Muslim populations displaced by previous outbreaks of hostilities; the Revolutionary Armed Forces of Colombia announced that they would no longer recruit young persons under 15.

⁸⁴ From the website: <http://www.genevacall.org/home.htm>. In the interests of transparency, it should be pointed out that the present author has been a member of the Board of Geneva Call since 2004.

⁸⁵ See Arts 96(3) and I(4).

⁸⁶ See Art. 7(4).

⁸⁷ Art. 1(4) of Additional Protocol I of 1977 to the Geneva Conventions of 1949.

⁸⁸ S. Maslen, *Commentaries on Arms Control Treaties, Volume I, The Convention on the Prohibition of the Use, Stockpiling, Production, and Transfer of Anti-Personnel Mines and on their Destruction* (Oxford: Oxford University Press, 2004) at 53, 64, and 74–75.

that disarmament treaties can be distinguished from humanitarian law treaties where 'purported legal applicability to "all parties to the conflict" is no stranger'.⁸⁹ But non-state actors may in fact already be bound under weapons treaties. As Kathleen Lawand from the International Committee of the Red Cross (ICRC) has pointed out, as regards states parties to amended Protocol II to the Convention on Certain Conventional Weapons, non-state actors 'would be bound to respect the Protocol's restrictions on the use of anti-personnel mines, without prejudice to them unilaterally adhering to a total ban on use of these weapons'.⁹⁰ Moreover, the amended Convention itself (which entered into force on 18 May 2004) has a similar reach, as its Article 1 replicates the obligation on non-state actors engaged in armed conflict with a state party and extends this obligation with regard to the other protocols: 'In case of armed conflicts not of an international character occurring in the territory of one of the High Contracting Parties, each party to the conflict shall be bound to apply the prohibitions and restrictions of this Protocol.'⁹¹ One should not therefore assume that today, weapons treaties are somehow in a different category of the laws of war and thus unable to fix obligations on non-state actors.

Returning to the Ottawa Convention on Anti-Personnel Mines, it is clear that, despite the proposals mentioned above, the treaty does not explicitly bind non-state parties to an internal conflict, nor does it make a specific reference to the possibilities of declarations by national liberation movements. This omission has led to alternative methods of encouraging armed groups to abandon the use of anti-personnel mines. Addressing a wide spectrum of armed groups (and not relying on the concept of self-determination struggles referred to above) Geneva Call has invited armed groups to sign a 'Deed of Commitment' for 'Adherence to a total ban on anti-personnel mines and for cooperation in mine action'. As of 20 November 2004, Deeds of Commitment had been signed by twenty-six armed groups from Africa, Asia, and the Middle East.⁹² Three aspects of this initiative are worth highlighting in the current context: the possible extension of such deeds to

⁸⁹ Maslen (2004: 64).

⁹⁰ K. Lawand, 'Reviewing the Legal Regime' in *Looking Back, Looking Forward—Workshop on Engaging Non-State Actors in a Landmine Ban*, International Campaign to Ban Landmines and Geneva Call, 13 September 2003, Bangkok at 3; the paper contains the usual disclaimer that the views do not necessarily reflect the position of the ICRC.

⁹¹ Although the amended Convention allows for future Protocols to avoid this extension to non-state actors, Protocol V on Explosive Remnants of War does refer back to the amended Art. 1 of the Convention.

⁹² See from Burundi: Conseil National pour la Défense de la Démocratie—Forces pour la Défense de la Démocratie (CNDD-FDD) (Hussein Radjabu), signed 15 December 2003; from Somalia all signed 11 November 2002: Banidiri (Mohamed Osman Maye); Hiran Patriotic Alliance (HPA)/Somali Reconciliation and Restoration Council (SRRC) (Hasan Abdulle Qalad); Jowhar Administration (Mohamed Omar Habeb 'Dhere') Puntland State of Somalia (Abdullahi Yusuf), Rahanweyn Resistance Army (RRA)/SRRC (faction of Hassan Mohamed Nur 'Shatigudud' and faction of Sheikh Adan Madobe); Somali African Muki Organisation (SAMO)/SRRC/Nakuru (Mowlid Ma'ane Mohamud); Somali National Front (SNF)/SRRC (Mohamed Sayid Aden); Somali Patriotic Movement (SPM)/SRRC (Aden Abdullahi Nur, 'Gabyow'); Southern Somali National Movement (SSNM)/BIREM (Abdullahi Sheikh Ismail); Southern Somali National Movement

cover human rights abuses; the commitment to go beyond the scope of the equivalent governmental treaty obligations; and the plurality of accountability mechanisms. Let us deal with each of these in turn.

7.5.2.1 The Commitment as a Step towards Recognizing the Human Rights Obligations of Non-State Actors

Article 5 in the standard Deed includes a commitment:

TO TREAT this commitment as one step or part of a broader commitment in principle to the ideal of humanitarian norms, particularly of international humanitarian law and human rights, and to contribute to their respect in field practice as well as to the further development of humanitarian norms for armed conflicts.

An annotated commentary, prepared by Soliman Santos, stated that, in addition to the obligation to contribute to the development of humanitarian law, the Deed of Commitment reflects the fact that future work of Geneva Call may use human rights as the basis for future commitments regarding: 'torture, use of child soldiers, civilian targeted bombings and "acts of threats of violence the primary purpose of which is to spread terror among the civilian population"'.⁹³ The preamble to the standard Deed contains two clear references to human rights obligations that suggest that, even though human rights are not the specific subject of the commitments in the Deed and its implementation/accountability mechanisms, *it is recognized that armed groups have human rights obligations*.⁹⁴

Reaffirming our determination to protect the civilian population from the effects or dangers of military actions, and to respect their rights to life, to human dignity, and to development...

(SSNM)/SNA/SRRC (Abdulaziz Sheikh Yusuf); Transitional National Government (Hassan Abshir and Abdalla Derow Isak); United Somali Congress (USC)/Somali National Alliance (SNA)/(SRRC) (Hussein Farah Aideed); USC/North Mogadishu/SRRC (Hilowle Imam Omar); USC/SNA/SRRC/Nakuru (Osman Hassan Ali 'Ato'); USC/Somali Salvation Army (SSA) (Omar Mohamoud Mohamed 'Finish'). From Sudan: Sudan People's Liberation Movement and Sudan People's Liberation Army (SPLM/A) (Nhial Deng Nhial), signed 4 October 2001. From Burma/Myanmar: Arakan Rohingya National Organisation (ARNO) (Nurul Islam, Salim Ullah), signed 2003; National United Party of Arakan (NUPA) (Khing Maung, Khaing Zaw), signed 2003; From India: National Socialist Council of Nagalim (NSCN) (Thuingaleng Muivah), signed 17 October 2003. From the Philippines: Moro Islamic Liberation Front (MILF) (Al Haj Murad), signed 7 April 2002; Revolutionary Proletarian Army—Alex Boncayao Brigade (RPA-ABB) (Arturo Tabara, Nilo de la Cruz), signed 10 September 2002; Revolutionary Workers Party of Mindanao (RPM-M) (Harry Tubongbanwa), 11 September 2003. From Iraq: Kurdistan Regional Government—Erbil, Democratic Party of Kurdistan (Shawkat Sheikhyezdin), signed 11 August 2002; Kurdistan Regional Government—Sulaimanyia, Patriotic Union of Kurdistan (Adnan Mufti), signed 10 August 2002.

⁹³ S. M. Santos, 'Geneva Call's Deed of Commitment for Armed Groups: An Annotation' in *Seeking Rebel Accountability: Report of the Geneva Call Mission to the MILF in the Philippines, 3–8 April 2002* (Geneva: Geneva Call, 2002) 82–91, at 88. The quotation regarding acts of terror is from Protocol I, Art. 51(2) and Protocol II, Art. 13(2).

⁹⁴ Recall also the Berlin Resolution of the International Law Institute 1999, discussed in Ch 2 above: 'The Application of International Humanitarian Law and Fundamental Human Rights, in Armed Conflicts in which Non-State Entities are Parties'.

Accepting that international humanitarian law and human rights apply to and oblige all parties to armed conflicts;

Such explicit recognition by the groups themselves helps to transform the debate about the human rights obligations of non-state actors. If armed groups are prepared to take on these human rights obligations, arguments about their non-applicability under international law lose much of their force. States may fear the legitimacy that such commitments seem to imply—but from a victim's perspective such commitments may indeed be worth more than the paper they are written on. If the language of human rights obligations becomes the medium for the protection of human dignity, this should be welcomed rather than dismissed as legally illiterate. The extension beyond the issue of anti-personnel mines into human rights obligations for non-state actors is foreseen in the Statute of Geneva Call, which states that its aim is to be 'dedicated to engaging armed non-State actors to adhere to a ban on landmines and to respect humanitarian and human rights norms, in particular, through the signing of deeds of commitment to a total ban on:—the use of anti-personnel mines;—the enrolment and/or the use of child soldiers;—the practice of torture and other cruel, inhuman or degrading treatment'.⁹⁵

Lastly, it should be recalled that claims regarding any sort of legal status accruing from the Deed are explicitly renounced in Article 6: 'This Deed of Commitment shall not affect our legal status, pursuant to the relevant clause in common article 3 of the Geneva Conventions of August 12, 1949.' The commentary by Santos states that this 'simply means that signing it does not add to or subtract from the existing legal status of the concerned armed group. In particular, there is no grant here of belligerency status, after all an obsolete concept in international law'.⁹⁶ It cannot be denied, however, that a partial effect of the Deed is to endow the non-state actor with some sort of enhanced moral status; by eclipsing the traditional legal approach, whereby the focus is on international recognition by governments and inter-governmental organizations, Geneva Call has opened the door to a new accountability mechanism for armed opposition groups. Rather than depending on the internationally legally significant Swiss Government (the depositary of the Geneva Conventions), the Republic and Canton of Geneva as 'custodian' of the Deed achieves the symbolism of Geneva law,⁹⁷ without running

⁹⁵ Art. 3. ⁹⁶ Santos (2002: 89). See also Riedel (2000a) and (2000b).

⁹⁷ According to the official website of the Etat de Genève, the Geneva Conseil d'Etat wrote to the Swiss Federal Government drawing its attention to the problems associated with anti-personnel mines and their use by non-state actors; the Conseil has asked the Federal authorities to take the necessary *démarches* to include a provision inspired by Art. 96(3) of Protocol I so that such an authority representing a people fighting for liberation against a state party could make a declaration and become bound under the amended treaty. Accepting that such a *démarche* will take time, the Geneva Government decided to act as custodian for the unilateral declarations renouncing the use of anti-personnel mines collected by Geneva Call. ('[L]e gouvernement genevois a décidé de conserver, à titre intérimaire, par sa chancellerie d'Etat, des déclarations unilatérales par lesquelles les groupes non-étatiques s'engagent à renoncer à l'utilisation des mines antipersonnel qui sont recueillies par

into the usual obstacles that international law has placed on the participation of non-state actors. In this way, the armed opposition groups have been able to go beyond the limiting inter-state framework and make humanitarian commitments beyond their obligations under a formal reading of international humanitarian law.

7.5.2.2 *The Scope of the Obligations in the Commitment*

Turning to the scope of the obligations, it is clear that the theory regarding the application of treaty rights to the inhabitants of a state is of no relevance to the assumption of obligations through these deeds of commitment. Deeds of commitment are entered into, not only in situations where the state has ratified the Ottawa treaty, but also where the government is not bound by international law under that treaty. Furthermore, the substance of the obligations undertaken by the non-state actors goes beyond the obligations contained in the treaty. Anti-personnel mines are defined by their *impact or effect*, rather than with regard to the *design intention*. Article 1 of the standard Deed of Commitment defines the objects of the ban as: 'those devices which effectively explode by the presence, proximity or contact of a person, including other victim-activated explosive devices and anti-vehicle mines with the same effect whether with or without anti-handling devices'. In addition, there are no exceptions permitted under the Deeds of Commitment, unlike the Ottawa treaty, where as governments have ensured exceptions for themselves with regard to training in detection and destruction techniques.

7.5.2.3 *Accountability and Monitoring*

The possibilities for ensuring accountability might be considered to pose the biggest problems. Nevertheless, if one reflects for a moment, the accountability of states for their commitments made under international treaties is also less than perfect. Inter-state complaints before the International Court of Justice are rare. Reprisals in the form of trade sanctions have proven to be blunt instruments, and are difficult to implement in the light of commitments undertaken in the context of the WTO.⁹⁸ Under the Ottawa treaty, the specific accountability mechanism is the state reporting obligation. Self-reporting by states is seen as central to accountability. An innovative aspect of Geneva Call's project has been the demand for compliance reports from the non-state actor signatories to Geneva Call's Deeds of

l'Appel de Genève.') Point de presse 29 March 2000, available at <http://www.geneve.ch/chancellerie/conseil/1997-2001>. One might point out that any amendment to the Ottawa Convention which would be limited to recognized liberation movements would severely restrict the legal applicability under the treaty to non-state actors of the type currently engaged in the Geneva Call initiative. As the formula under Protocol I has led to no recognized declaration in 25 years, it seems likely that the political problems with regard to admitting the existence of a category of liberation movements would remain. See further D. Matas, 'The law: a tool to engage non-state actors in a landmine ban' in M. Foster (ed) *Engaging non-state actors in a landmine ban: a pioneering conference*, Conference held in Geneva, 24-25 March 2000, Quezon City (Philippines: Conference Organizers, 2001) 130-135.

⁹⁸ See Ch 5, at 5.1.1.3 above.

Commitment. Among the details requested are reports on the disciplinary regime put in place for sanctions by the non-state actors themselves against commanders or others who allow the use of anti-personnel mines. In addition, the report is to give details of actual sanctions taken.

The accountability mechanism also includes an obligation on the part of the non-state actor to allow for monitoring and verification.⁹⁹ So far, some verification has predictably proven problematic for political and security reasons, although certain issues have been clarified through monitoring in the field.¹⁰⁰ One concrete sanction foreseen in the Deed is the possibility of publicity for non-compliance.¹⁰¹ One might ask why rebel groups should care about publicity concerning a breached commitment? The reasons are the same as the motivations that affect the willingness to make the commitment in the first place.

First, such a commitment is a step towards increased legitimacy within the international community, and thus to political support for demands related to human rights or political autonomy. Second, such a commitment makes it easier to argue that the government forces should give up the use of landmines. Where a government is refusing to enter into an international commitment, such as the Ottawa treaty, this can be used to present the rebelling party as more humanitarian than the regime it is fighting. Third, in some cases, by 'getting ahead' of other non-state actors, the committed group can present themselves as a superior partner for a variety of entities in the international community (observer states, international organizations, and non-governmental organizations (NGOs) may all feel more comfortable working with a group committed (even in part) to upholding international norms). Fourth, signing the commitment opens the way for Geneva Call to facilitate mine action in rebel-held areas. Finally, some representatives of some non-state actors may be genuinely moved by a sense of 'humanitarianism'. At least one negotiation and signing took place in the Alabama Room in Geneva—the room where the first Geneva Convention was signed in 1864—and a symbolic room in the history of international arbitration and the peaceful settlement of disputes. One cannot rule out that some sentiments permeating the international law of dispute settlement and humanitarian law might play a role. In this vein, some parallel unilateral statements issued by armed non-state actors

⁹⁹ See generally para. 3 of the Deed of Commitment.

¹⁰⁰ See Geneva Call, *Seeking Rebel Accountability: Report of the Geneva Call Mission to the MILF in the Philippines, 3–8 April 2002* (Geneva: Geneva Call, 2002); see also Santos, who has referred to the opportunity during that mission to verify and clarify 'admitted use of "string-pulled" improvised APMs and on the correct concept of "command detonation"', 'A Critical Reflection on The Geneva Call Instrument and Approach in Engaging Armed Groups on Humanitarian Norms: A Southern Perspective', paper for the Conference, Curbing Human Rights Violations by Non-State Armed Groups, 13–15 November 2003, The Armed Groups Project, Centre for International Relations, Lluís Institute—University of British Columbia, at 11.

¹⁰¹ Para. 7 states: 'We understand that Geneva Call may publicize our compliance or non-compliance with this Deed of Commitment.'

make preambular references to religious beliefs and teachings.¹⁰² Other similar statements refer in a secular way to the dignity of the people whose support the non-state actors are hoping to secure.¹⁰³ Motivations will always be mixed, and however difficult these commitments are to monitor, the Deeds of Commitment do illustrate an interesting regime for holding non-state actors to account for abuses of rules based on international law.

Do such commitments contribute to the elaboration of international obligations for the non-state actors themselves? It is suggested that we can discern a hardening of the obligations in the context of this process. First, the unilateral commitment made towards, not only an NGO (Geneva Call), but also towards a 'territorial unit of a state'¹⁰⁴ (the Republic and Canton of Geneva) could be seen as generating, in itself, expectations and even obligations. In some cases the signing has been in the presence, not only of a representative of the Republic and Canton of Geneva, but also of an Ambassador from the state against which the rebels are fighting. The process is evidently more than a simple bilateral arrangement with an NGO.

It is uncontroversial that where a rebel group enters into an agreement with a state to respect human rights or humanitarian principles, as foreseen in Common Article 3 to the Geneva Convention, such an agreement would be legally binding on the non-state actor¹⁰⁵ and could give rise to individual international criminal responsibility.¹⁰⁶ While the Deeds of Commitment may be legally distinguishable

¹⁰² See, e.g. with regard to kidnap-for-ransom activities, the Moro Islamic Liberation Front's preambular statement that: 'Whereas, more than 1,400 years ago before the [Four] Geneva Conventions were adopted by the community of nations on August 12, 1949, Islam had already prescribed that non-combatants such as children, women, old people, monks or priests and the like are not the objects of war; and also it prohibited the destruction of properties, orchards, mutilation of the dead and other cruelties during war.' Reproduced in Geneva Call, *Seeking Rebel Accountability: Report of the Geneva Call Mission to the MILF in the Philippines, 3–8 April 2002* (Geneva: Geneva Call, 2002) at 48; see also the declaration of the Taliban on landmines of 6 October 1998, reproduced in 'Statements By Non-State Armed Actors—NSAs Under International Humanitarian Law-IHL—Some Historical Precedents', available from Geneva Call.

¹⁰³ Consider the statement made to the ICRC by the African National Congress on 28 November 1980, which starts: 'It is the conviction of the African National Congress of South Africa that international rules protecting the dignity of human beings must be upheld at all times.' Reproduced in 'Statements by Non-State Armed Actors' (n 102 above).

¹⁰⁴ This is the expression used in the International Law Commission's Articles on State Responsibility (n 56 above), Art. 4, conduct of organs of a state.

¹⁰⁵ See Zegveld (2002: 28–30 and 50). Note the Deeds of Commitment are not 'deposited' with the Swiss Federal Authorities; rather, the Canton and Republic of Geneva acts as the 'custodian' of the Deed. We might add here that the ICRC has succeeded in encouraging armed non-state actors to adopt unilateral declarations and bilateral agreements with governments in numerous situations of internal armed conflict.

¹⁰⁶ See ICTY Appeals Chamber, *Prosecutor v Tadić* (jurisdiction) IT-94-1-AR72, 2 October 1995, at para. 143: 'Before both the Trial Chamber and the Appeals Chamber, Defence and Prosecution have argued the application of certain agreements entered into by the conflicting parties. It is therefore fitting for this Chamber to pronounce on this. It should be emphasised again that the only reason behind the stated purpose of the drafters that the International Tribunal should apply customary international law was to avoid violating the principle of *nullum crimen sine lege* in the event that a party to the conflict did not adhere to a specific treaty. (Report of the Secretary-General,

from such agreements, there is no reason to believe that their impact in curbing behaviour is somehow consequently diminished. Moreover, should the procedure surrounding adoption come formally to include states or inter-governmental organizations such as the United Nations, the legal status of these commitments may yet come to be seen as generating international legal obligations, as opposed to quasi-contractual obligations under national law.

Secondly, the states parties to the Ottawa Treaty seem now to suggest that the norms contained in the treaty should indeed extend to non-state actors and that the commitments made by non-state actors should provide an accountability mechanism. The Fourth meeting of states parties to the Ottawa Treaty included the following conclusion:

12. We reaffirm that progress to free the world from anti-personnel mines would be promoted by the commitment by non-State actors to cease and renounce their use in line with the international norm established by this Convention. We urge all non-State actors to cease and renounce the use, stockpiling, production and transfer of anti-personnel mines according to the principles and norms of International Humanitarian Law.¹⁰⁷

At the fifth meeting, the European Union encouraged non-state actors to enter into Deeds of Commitment with Geneva Call:

The European Union expresses the hope that all non-state actors will cease the use of anti-personnel landmines and will sign the deed of commitment for adherence to a total ban on anti-personnel mines and for cooperation in mine action, as provided for by Geneva Call.¹⁰⁸

The final Declaration of the Fifth Meeting of the states parties stated:

12. We reaffirm that progress to free the world from anti-personnel mines will be enhanced if non-State actors embrace the international norm established by this Convention. We urge all non-State actors to cease and renounce the use, stockpiling, production and transfer of anti-personnel mines according to the principles and norms of international humanitarian law, and to allow mine action to take place. We welcome the efforts of non-governmental organizations, the International Committee of the Red Cross and the United Nations in engaging non-State actors on a ban on anti-personnel mines and express our appreciation for the work of these organizations . . . as well as our desire that individual States parties that are in a position to do so facilitate this work.¹⁰⁹

at para. 34.) It follows that the International Tribunal is authorised to apply, in addition to customary international law, any treaty which: (i) was unquestionably binding on the parties at the time of the alleged offence; and (ii) was not in conflict with or derogating from peremptory norms of international law, as are most customary rules of international humanitarian law.³ Discussed by Zegveld (2002: 30), who concludes: 'It may be inferred that the Tribunal referred to agreements concluded by both states and armed groups.'

¹⁰⁷ Declaration of the Fourth Meeting of States Parties, adopted by the plenary meeting on 20 September 2002, APLC/MSP.42002/1, at 10 para. 12.

¹⁰⁸ Statement by Amb. C. Trezza, Bangkok, 15–19 September 2003.

¹⁰⁹ Bangkok Declaration, adopted by the plenary meeting 19 September 2003, APLC/MSP.5/2003/5, at 2, para. 12.

This encouragement to renounce the use, stockpiling, production, and transfer of anti-personnel mines 'according to the principles and norms of international humanitarian law' could be read as evidence that states consider that such behaviour can now represent a violation of humanitarian law for non-parties to the Ottawa treaty.

Third, it is clear that the commitments regime developed by Geneva Call has encouraged governments and inter-governmental organizations to incorporate such an approach into their own missions. The UN Mine Action Advocacy Strategy includes Goal 4, which reads:

Armed non-state actors adhere to and comply with commitments and obligations to halt immediately and unconditionally new deployments of anti-personnel mines and to comply with relevant international human rights and humanitarian norms and standards.

- 4.1 Elicit commitments from armed non-state actors to comply with international norms regarding landmines or ERW [explosive remnants of war].
- 4.2 Elicit commitments from armed non-state actors to comply with international norms regarding the rights of persons affected by landmines or ERW.
- 4.3 Monitor and report on relevant commitments by armed non-state actors in the appropriate forums.

Such action is not dependent on the legal status of the groups or the nature of the commitments entered into. Whatever the legal obligation of the non-state actors under international humanitarian law, the use of 'commitments' provides a clear set of obligations and nascent compliance mechanisms which could develop into something at least as effective as the treaty regime for ensuring state compliance. In fact, the prospect of continual verification and monitoring through field missions means that, in terms of detecting non-compliance, the commitments regime has the potential to become even more effective than the formal treaty regime.