

SOCIALISATION OF INTERNATIONAL RULES. EXPLORING ALTERNATIVE MECHANISMS FOR SECURING COMPLIANCE WITH INTERNATIONAL HUMANITARIAN LAW BY ARMED GROUPS

Proliferation of internal armed conflicts poses a challenge to the framework of international humanitarian law (IHL) as it was primarily designed to guide states' behaviour while at war. Are the existing mechanisms available under IHL sufficient to ensure compliance with the law by armed groups? The purpose of this article is to examine how socialisation, by which I mean a process of internalising a norm or a rule so that external pressure is no longer necessary to ensure compliance, might contribute to producing long-term rule-consistent behaviour. I begin with the identification of the legal framework applicable to internal conflicts and challenges associated with its implementation. Following is the discussion of the ideas on socialisation and their utility in the context of IHL and armed groups. I then proceed to present a particular example of positive engagement with such groups under the so-called Deed of Commitment, launched by a Swiss NGO, Geneva Call. Finally, I return to my analytical framework, apply it to the system established under the Deed of Commitment, and assess to what extent socialisation and positive engagement may ensure greater respect for humanitarian rules. I conclude that socialisation is a valuable tool that may complement the existing mechanisms under IHL and, under certain conditions, contribute to long-term rule-consistent behaviour.

Key words: proliferation, socialization, international humanitarian law (IHL)

*"Law must not be confused with liturgy.
It is not enough to enact and reiterate the law:
to be meaningful, norms must be adhered to in reality"¹.*

Introduction

Ideas bearing behind of this quote,, in my view, captures the challenge that International Humanitarian Law is faced with nowadays, namely how to secure compliance with that law by non-state armed groups. Widespread violations of IHL committed by such groups seem to indicate the ineffectiveness of the existing mechanisms for ensuring compliance with the law. That is also why a debate on whether and how to engage such groups beca-

¹ Yoram Dinstein, *The Conduct of Hostilities under the Law of International Armed Conflict* 295 (2nd ed. 2010).

me a topical issue in recent years². But direct engagement with armed groups is difficult and challenging. In most cases, states involved are very critical of any attempt to bypass their authority. Most prefer to treat internal hostilities as a matter of domestic criminal law. Although humanitarian law applies as a matter of fact³, seemingly selective application of IHL by states may lead to diminishing respect for these rules among armed groups. On the other hand, even in cases where the application of IHL has been accepted by a state party, armed groups' abidance by law is uncertain. Focus has therefore been placed of late on developing mechanisms of international criminalisation. While prosecution is the only appropriate response to those breaches of IHL that constitute criminal acts, one should be mindful that not every humanitarian rule entails criminalisation for its breach. The lack of penal sanctions may be thought more a product of states' disagreements rather than a reflection of the insignificance of these rules. The paucity of weapons specific crimes under the *Rome Statute* illustrates the difficulty of establishing such sanctions. The 2010 Review Conference amended Article 8 to criminalise the use of certain weapons in the context of non-international armed conflicts⁴, but this has not been extended to anti-personnel mines. Absent a crime, it seems important to explore other mechanisms that may ensure better compliance with IHL. Socialisation, by which I mean a process of endorsing a norm or a rule so that external pressure is no longer necessary to ensure compliance, could be one of them.

Therefore, the purpose of this article is to examine how socialisation triggered through positive engagement with armed groups may contribute to producing long-term rule-consistent behaviour. In order to present how socialisation occurs in practice, I will focus on outcome of analysis drawn from Geneva Call's engagement of armed groups with the ban on anti-personnel landmines under the so-called *Deed of Commitment*. Subsequently, effort will be made to provide scientific justification for the thesis: how can the engagement of armed groups through the mechanism of the *Deed of Commitment* ensure their long-term compliance with the mine ban and other humanitarian rules?

Applying with holistic approach, context of this article is structured as follow: in the next part, I briefly discuss the IHL framework relevant for armed groups and the challenges linked to its application. Having identified those challenges, I present the ideas on socialisation that originated in Thomas Risse's research project on human rights. Following is a presentation of Geneva Call's engagement with armed groups. Finally, I return to my analytical model, apply it to the system established under the *Deed of Commitment*, and assess its utility in terms of producing long-term rule-consistent behaviour.

² See e.g. Anne-Marie La Rosa & Carolin Wuerzner, *Armed Groups, Sanctions and the Implementation of International Humanitarian Law*, 90 IRRC 870, 327 (2008).

³ The argument being that since the determination of the existence of an armed conflict – whether of international or non-international character – is a matter of fact; IHL applies irrespectively of the subjective determination by the parties to such a conflict. See Jean S. Pictet et al., *Commentary on the Geneva Conventions for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field* 28-32, 49-50 (1952).

⁴ In line with the Belgian proposal, these include: poisoned weapons, asphyxiating gases and expanding bullets. See *Amendments to Article 8 of the Rome Statute*, RC/Res.5, Depository Notifications, C.N.651.2010 (2010).

Before moving on to the substantive analysis, I would like to remark on the adopted terminology. The emergence of a diversity of armed non-state actors resulted in outpouring of definitions and labels. While some of them may actually be found in treaties themselves⁵, others are more of a result of the attempts to redefine the existing legal concepts. Resorting to law, however, is not always helpful while analysing complex phenomena. The criteria introduced vis-à-vis combatants by the *Geneva Convention III* with a view to granting them the status of a *prisoner of war*⁶, or the criteria introduced vis-à-vis armed groups by the *Additional Protocol II*⁷ and further elaborated in the jurisprudence of the ad hoc International Criminal Tribunal for the Former Yugoslavia (ICTY)⁸, are very difficult to meet in practice. In this paper, the notion of “armed groups” is thus informed by the criteria specified by Geneva Call. These are:

1. possessing of a basic structure of command and control,
2. operating outside the state control,
3. using force to achieve their (allegedly) political objectives⁹.

Relying on a flexible conception, it is necessary to include in the framework of my analysis such groups that while being the signatory of the *Deed of Commitment*, could not meet the threshold of organisation specified in AP II or in the ICTY jurisprudence.

Humanitarian Law Applicable to Armed Groups

In general, development of humanitarian law applicable to non-international armed conflicts (NIACs) is a process of extending the rules already existing in international armed conflicts (IACs) – albeit not mechanically and not without certain limitations – rather than creating the new ones. The rules have emerged at the level of customary law and

⁵ E.g. organized armed groups, dissident armed forces, belligerents etc.

⁶ Being under responsible command; having a fixed and distinctive sign recognizable at the distance; carrying the arms openly; and complying with the laws and customs of war during military operations. See Geneva Convention Relative to the Treatment of Prisoners of War art.4.A.2, Aug. 12, 1949, 75 U.N.T.S. 135.

⁷ Having command structure; controlling part of the territory; conducting sustained and concerted military operations; capability to implement the Protocol. See Protocol Additional to the Geneva Conventions of August 12, 1949, and relating to the Protection of Victims of Non-International Armed Conflicts art.1.1, June 8, 1977, 1125 U.N.T.S. 609 [hereinafter AP II].

⁸ The most relevant in this context is the 2008 *Haradinaj* judgement, where the Trial Chamber embarked on elaborating the criteria of “organization of the parties.” These include: the existence of a command structure and disciplinary rules and mechanisms within the group; the existence of a headquarters; the fact that the group controls a certain territory; the ability of the groups to gain access to weapons, other military equipment, recruits and military training; its ability to plan, coordinate and carry out military operations, including troop movements and logistics; its ability to define a unified military strategy and use military tactics; and its ability to speak with one voice and negotiate and conclude agreements such as cease-fire or peace accords. See Prosecutor v. Ramush Haradinaj, Idriz Balaj, Lahi Brahimaj, ICTY Trial Judgement, Case No. IT-04-84-T, § 60 (2008).

⁹ See Anki Sjöberg, *Armed Non-State Actors and Landmines: A Global Report Profiling NSAs and their Use, Acquisition, Production, Transfer and Stockpiling of Landmines*, Geneva Call and PSIO (2005), on www.genevacall.org/Themes/Landmines/landmines.htm (last visited on November 15, 2010).

treaty law, with one informing the other. The two most relevant treaty regulations are Article 3 common to the four *Geneva Conventions* (CA3) and the *Additional Protocol II*.

The 1949 adoption of CA3 was a compromise between “those who believed that the *Geneva Conventions* should apply to all wars [...] and those who felt that they should have no application except in armed conflicts between states”¹⁰. Its fundamental character has been reaffirmed many times since. The International Court of Justice (ICJ), for example, described it as the “minimum yardstick”¹¹.

In terms of legal substance the concept of this article does not go beyond spelling out the underlying principles of the *Conventions*, providing certain imperative rules of humane treatment and minimum judicial guarantees¹². The scope of protections afforded to the victims of internal conflicts is much more limited than those prescribed for the victims of international armed conflicts. Another “weakness” of CA3 is the very general framing of its field of application – “in case of armed conflict not of an international character.” In the absence of a clear definition, any question concerning the “required” level of intensity that disturbances must reach to qualify as a NIAC, could not be provided with a definite legal answer.¹³ As a result, the article was applied belatedly or not at all. The efforts to address the “shortcomings” of the CA3 culminated in the 1977 adoption of the *Second Additional Protocol*.

AP II significantly expanded the scope of protections secured under CA3. These included: providing protection of civilian population and civilian objects from attacks; clarifying the imperatives of “humane treatment”; specifying the modalities of care provision for wounded, sick and shipwrecked persons; and broadening the scope of fundamental guarantees for persons deprived of liberty. Furthermore, the Protocol introduced a set of specific criteria delineating its material scope of application. These include the following:

- a conflict must take place on the territory of a State Party to the AP II;
- state armed forces have to be one party to such a conflict;
- a conflict has to reach a certain level of intensity¹⁴;
- armed groups have to reach a sufficient level of internal organisation.

While the inclusion of these requirements was primarily meant to facilitate the application of the Protocol independent from subjective interpretations of the involved parties, it ultimately limited its application only to “high level internal armed conflicts”¹⁵.

¹⁰ Charles Lysaght, *The Scope of Protocol II and Its Relation to Common Article 3 of Geneva Conventions of 1949 and Another Human rights Instruments*, 33 Am. U. L. Rev. 1, 9 (1983).

¹¹ Nicaragua v. United States Of America, Case Concerning The Military And Paramilitary Activities In And Against Nicaragua, Judgment on the Merits, 1986 I.C.J. Reports, § 218 (1986).

¹² Sylvie Junod, *Additional Protocol II: History and Scope*, 33 Am.U. L. Rev 1, 29-40 (1983).

¹³ Georges Abi-Saab, *Non-international Armed Conflicts*, in *International Dimensions of Humanitarian Law* 217, 221 (Henry Dunant Institute and UNESCO, 1988).

¹⁴ The *Protocol* would not apply “to situations of internal disturbances and tensions, such as riots, isolated and sporadic acts of violence and other acts of similar nature, as not being armed conflicts.” See AP II *supra* note 7, art. 1(2).

¹⁵ Laura Perna, *The Formation of the Treaty Law of Non-International Armed Conflicts* 104 (2006).

To avoid regression from the long-standing protections granted earlier existing conditions of application for CA3, which does not contain similar high-intensity or organization criteria, remained. This produced a legally complex situation allowing for the simultaneous application of either both legal instruments or for the exclusive application of CA3 to situations that would not meet the criteria specified in AP II.

Provisions relevant for NIACs may also be found in other treaties. While some of them were only recently expanded to also include NIACs in the scope of application (e.g. the so-called *Cultural Property Convention* and the *Convention on Certain Conventional Weapons*), other are covering NIACs from their first entry into force (e.g. the *Chemical Weapons Convention* and the *Convention on Cluster Munitions*).

In terms of customary law applicable to NIACs, little was clarified until international criminal tribunals started prosecutions for the violations of international law committed during the conflicts in the former Yugoslavia and Rwanda. The most important in this context is the *Tadić jurisprudence* – particularly the Appeals Chamber’s Decision on Jurisdiction – where the ICTY ascertained the existence of customary international law applicable to internal conflicts based neither upon CA3 nor upon AP II. More specifically, the Tribunal established independent existence of the rules aiming at the protection of the civilian population (or, more generally, those who do not – or no longer – take active part in hostilities) from the effects of an armed conflict, and at limiting the use of certain means and methods of warfare¹⁶. The Appeals Chamber concluded in its famous dictum: “what is inhumane, and consequently proscribed, in international wars, cannot but be inhumane and inadmissible in civil strife”¹⁷.

In addition, the ICTY asserted that the law imposes individual criminal responsibility for serious violations of CA3, as “supplemented by other general principles on the protection of victims of internal armed conflict, and for breaching certain fundamental principles and rules regarding means and methods of combat in civil strife”¹⁸.

The adoption of the Statute of the International Criminal Court also contributed to crystallising the scope of customary law applicable to NIACs through reaffirmation of individual criminal responsibility for violations¹⁹. Article 8 (2) (e) enumerates serious violations of “the laws and customs applicable in armed conflicts not of an international character” and thus confirms the existence of rules limiting the use of methods and means of combat in such conflicts²⁰.

Development of the customary law applicable to internal conflicts is an on-going process. Establishing the precise scope of such rules in face of state practice is by no means undisputed or easy. In this context, the ICRC Study on Customary IHL remains an

¹⁶ Prosecutor v. Tadić, Decision on the Defense Motion for Interlocutory Appeal on Jurisdiction, ICTY Appeals Chamber Case No. IT-94-1, § 100, 119 (1995).

¹⁷ *Id.* § 119.

¹⁸ *Id.* § 129, 134.

¹⁹ Rome Statute of the International Criminal Court, opened for signature July 17, 1998, 2187 U.N.T.S. 90.

²⁰ Apart from the above, the preceding paragraph of the same article – Art. 8 (2) (c) – identifies as “war crimes” serious violations of Common Article 3.

important instrument for conducting such an assessment²¹. The *Study* identifies a range of rules, which, according to the interpretation of the ICRC, have already acquired customary status with respect to international armed conflicts, internal armed conflicts or both. In light of criticism by states like the USA and Israel, and some academics²², however, it is impossible to conclude that the list has been universally accepted.

Practical Challenges in Applying Humanitarian Law to Armed Groups

States' reluctance to accept the application of IHL whenever an armed conflict materialises on their territory was a major obstacle to effective implementation since the first rules were codified for NIAC in 1949. This trend has been somehow reversed in the wake of the so-called "global war on terror"²³. What we are witnessing, since launching of the counter-terrorist operations in response to the 9/11 attacks, is states' seemingly selective application of IHL to situations that are often overclassified as armed conflicts²⁴. Lieutenant-Colonel William J. Fenrick best summarised the seriousness of the consequences linked to the application of IHL: "*Premature application of the laws of war may result in a net increase of human suffering, because the laws of war permit violence prohibited by domestic criminal law*"²⁵. While it should not be precluded that IHL applies to some components of the counter-terrorist campaign that amount to an armed conflict²⁶, what remains problematic is the exercise of unstructured discretion by states driving "war on terror" in the choice of which particular aspects of humanitarian law are acknowledged as applicable and when. The US invoking of IHL to justify targeted killings of suspected Al-Qaeda operatives in Yemen in 2003 and its subsequent denial of humanitarian protections to those captured during military campaigns in Afghanistan and Iraq are a case in point²⁷. Subjecting application of IHL to imperative security reasons prevalent at the time

²¹ Jean-Marie Henckaerts and Louise Doswald-Beck, *Customary International Humanitarian Law* (2005).

²² Yoram Dinstein, *The ICRC Customary International Law Study*, in *Israel Yearbook on Human Rights* 36, 1 (2006).

²³ While it is important to ask questions like: does a situation of "war" exist between a state and a terrorist organisation; what rights are terrorists entitled to and under which legal regime; is IHL capable to keep up with the changing nature of armed conflicts; this article – given its scope and limitations – cannot contribute to answering them. For more information see e.g. Curtis A. Bradley & Jack L. Goldsmith, *Congressional Authorisation and the War on Terrorism*, 42 HLR 1, 46-79 (2005); Derek Jinks, *September 11 and the Laws of War*, 28 Am.U.L.Rev. 1, 1-49 (2003).

²⁴ Marco Sassòli, *The Implementation of International Humanitarian Law: Current and Inherent Challenges*, in *Yearbook of International Humanitarian Law* 50 (Timothy McCormack and Jann K. Klefner eds. 2007).

²⁵ William J. Fenrick, *Should the Laws of War Apply to Terrorists?*, in *American Society of Law Proceedings* 79, 112 (1985).

²⁶ E.g. an IAC between the US and the Taliban government in the period October 2001-June 2002; a post-June 2002 NIAC between the Afghani government (supported by the US) and the Taliban; the US occupation of Iraq.

²⁷ See Helen Duffy, *The "War on Terror" and the Framework of International Law* 336 (2005); Gabor Rona, *Interesting Times for International Humanitarian Law: Challenges from the "War on Terror"*, in 27

is not a sole privilege of the USA²⁸. However, neither states' bypassing of the applicable laws nor listing of armed groups as terrorists invite the latter's respect for humanitarian rules²⁹.

On the other hand, armed groups' respect for IHL (or a lack thereof) is not simply an attendant of states' records of compliance. Another factor influencing their behaviour is linked to the asymmetrical nature of contemporary warfare. When faced with technological superiority and overwhelming military strength of the enemy (most likely state armed forces), the weaker side may believe that the only way to effectively engage the adversary inevitably implies resort to means and methods violating IHL³⁰. Asymmetry matters also with respect to the moral standing of the parties to a conflict and their justifications for the use of force³¹. Although IHL is based on the separation of *ius ad bellum* (the law on the legitimacy of the use of force) and *ius in bello* (the law on how force may be used), affording the same scope of rights and protections to both sides of a conflict has become less acceptable for those who claim to defend "the common interest"³². Once a perception emerges that international law protects only one party; armed groups, regarded as criminals under national laws whether they comply with IHL or not, have little or no incentive to act in accordance with these rules.

Furthermore, not all armed groups are genuinely interested in respecting the rules of war. When the aim pursued by a belligerent is incompatible with IHL, or a group intentionally resorts to prohibited means or methods, criminalisation under international law is the only appropriate response. Criminal sanctions have indeed been advocated as the key mechanism for ensuring compliance. But ending impunity for IHL violations is neither simple nor free from political overtones. While deterrent effect of criminal justice should not be underrated, the material limitations associated with international prosecutions³³ raise doubts as to whether it should remain the only mechanism for ensuring observance of IHL.

The Process of Socialisation: A Missing Link?

Socialisation is conceptualised as "a process by which principled ideas held by individuals become norms in the sense of collective understandings about appropriate behaviour

Fletcher Forum of World Affairs 2, 64 (2003).

²⁸ Sassòli *supra* note 24, at 51.

²⁹ Nicolas Florquin and Elisabeth Decrey Warner, *Engaging Non-State Armed Groups or Listing Terrorists? Implications for the Arms Control Community*, in *Disarmament Forum: Engaging Non-State Armed Groups*, 20 (2008).

³⁰ Michael N. Schmitt, *Asymmetrical Warfare and International Humanitarian Law*, in *International Humanitarian Law Facing New Challenges* 35 (Wolf Heintschel von Heinegg and Volker Epping eds. 2007).

³¹ *Id.* at 45.

³² Sassòli, *supra* note 24, at 61.

³³ E.g. the focus on large-scale crimes and on the high-ranked persons in control, retrospective approach to the behaviour in war, overlooking collective nature of hostilities.

which then lead to changes in identities, interests, and behaviour”³⁴. The main goal of socialisation is for actors “to internalise norms, so that external pressure is no longer needed to ensure compliance”³⁵. However, neither the process of accepting a norm nor transforming the behaviour happens overnight. To the contrary, socialisation occurs gradually, with each stage of the process characterised by different modes of interaction “necessary for enduring internalisation of international norms.” These are the following:

1. instrumental adaptation and strategic bargaining;
2. moral consciousness-raising, “shaming,” argumentation, dialogue and persuasion;
3. institutionalisation and habitualisation³⁶.

Instrumental adaptation tends to dominate the beginning of the socialisation process. A norm-violating actor instrumentally adjusts his/her behaviour in line with an international norm because it appears to be beneficial.

As the process of socialisation progresses, actors gradually start to participate in argumentative discourses on validity of an international norm. Participation in communicative processes, while necessary, is not a sufficient condition to produce long-term, norm-abiding behaviour. “Norms can only be regarded as internalised [...], when actors comply with them irrespective of individual beliefs about their validity”³⁷. The final stage of socialisation is concerned with the implementation of a norm independently from the belief systems held by actors. This leads to the transformation of behaviour in accordance with the endorsed norm and without further questioning of its justification or implications.

To operationalise the ideas on norm socialisation, Risse and his colleagues developed the so-called *spiral* model of human rights change. The model consists of five distinctive phases of: repression, denial, tactical concessions, “prescriptive status”, rule-consistent behaviour and incorporates activities on three different levels. Because it was designed to capture the impact of human rights on states’ behaviour, I consider it necessary to transform it so as to apply it in the context of armed groups and humanitarian law. It is important to note that the model of norm-induced behavioural change necessarily has a narrower scope when dealing with IHL. While it is applicable to the entire framework of human rights, it is less so with respect to humanitarian rules, whose breaches entail the imposition of criminal sanctions. In other words, where IHL presupposes criminal prosecution for the perpetrators of the violations, the issue of whether they can internalise these rules is simply irrelevant from the prosecutorial perspective.

³⁴ The ideas on norms socialisation have initially been developed by Thomas Risse and his colleagues to account for the human-rights induced change in states’ practices. Despite the differences in the normative structure of human rights and international humanitarian law, socialisation may still, in my view, become a valuable tool for increasing armed groups’ respect for IHL.

³⁵ Thomas Risse et al., *The Power of Human Rights*, 11 (1999).

³⁶ *Id.* at 5.

³⁷ *Id.* at 16.

<p>Domestic^a Gathering information on armed group's conduct inconsistent with humanitarian law</p> <p>Facilitating the establishment of contacts with an armed group</p> <p>Sustained links to international humanitarian community</p> <p>Documenting progress (or a lack thereof) on the group's fulfilment of its commitments to comply with IHL</p>	<p>Armed group Breaching of a humanitarian rule</p> <p>Denial A rule-violating group denies the violations and/or the validity of a given rule</p> <p>Tactical concessions Concessions to international humanitarian community Reduced margin of manoeuvre</p> <p>"Prescriptive status" Armed group accepts the validity of a given humanitarian rule</p> <p>Rule-consistent behaviour</p>	<p>International^b Humanitarian community:</p> <ul style="list-style-type: none"> • Receives information from the actors on the domestic level • Invokes IHL standards • Attempts to establish contact with a group <p>Sustained second track diplomacy</p> <p>Continued monitoring of the group's commitment</p>
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^a Domestic level includes interactions between states represented by a respective government, local constituency of an armed group, and local NGOs concerned with ensuring compliance with the IHL at the local level; ^b International level covers interactions between international institutions responsible for the implementation of IHL, the ICRC with its specific mandate to guard development and implementation of IHL, states, NGOs and other entities concerned with ensuring compliance with IHL.

Figure 1. The "transformed" spiral model of socialisation into humanitarian rules

Source: own.

Phase 1: Violation of IHL and the initiation of contacts with the "target armed group"

The starting point of the analysis is the identification of a given group as an IHL offender by international community based on information provided at the local level. Given the character and purpose of IHL – the minimum regulation in times of an armed conflict – all instances of disregarding these very rules seem to reach the degree of severity that calls for international scrutiny.

Phase 2: Denial

During this phase, the international humanitarian community focuses its attention on group's violations by producing and disseminating information about them. Socialisation begins only if the "target group" feels compelled to deny the allegations and/or to contest the validity of a given rule. The extent to which an armed group starts to justify its conduct is largely determined by its vulnerability, such as dependence on international assistance or a desire to maintain good reputation vis-à-vis international or domestic audiences. If the "target group" is characterised by low vulnerability, it will not respond to the engagement efforts. In such a case, socialisation would not occur.

Phase 3: Tactical concessions

This phase is primarily concerned with engaging IHL-violating armed group in an institutionalised discourse over legitimacy. Continued participation in a dialogue and the persistent pressure from the international humanitarian community may result in tactical concessions from the “target group.” Adjustments in behaviour undertaken are primarily a product of strategic motivation on the part of the IHL-violating group. When making these concessions, armed groups almost uniformly underestimate their impact and they became entangled in the changes they themselves have initiated.

Phase 4: “Prescriptive status”

A given humanitarian rule acquires “prescriptive status” when the involved group makes regular reference thereto while commenting on their behaviour and that of others. As noted by Risse and Sikkink, “the validity claims of the norm are no longer controversial [to the group], even if the actual behaviour continues violating the rules”³⁸.

Phase 5: Rule-consistent behaviour

Socialisation is only accomplished when the rules are institutionalised in group’s practices. Rule-following becomes group’s habitual practice, even in the absence of the pressure from the environment. The reliable indicators of reaching the last stage of socialisation are rules in codes of conduct, internal overseeing of compliance, and introduction and execution of disciplinary sanctions for the rank and file. If such actions are undertaken, the responsibility for the implementation of the group’s commitment is clearly vested in the group itself and external pressure is no longer necessary to ensure compliance.

Engaging Armed Groups with IHL: Geneva Call and Its Initiative

The adoption of the 1997 *Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction* was a milestone in arms regulations³⁹. While it contributed to a significant decrease in states’ use, production and transfer of anti-personnel (AP) mines, it was soon apparent that this would not suffice to eradicate the landmine problem entirely. Low cost and easy availability make AP mines an ideal weapon for groups with limited resources or limited access to arms markets. Recognizing the scale of the problem, Geneva Call – a Swiss NGO – launched in 2000 the *Deed of Commitment for Adherence to a Total Ban on Anti-Personnel Mines and for Cooperation in Mine Action*⁴⁰. The document aims at the engagement of armed non-state

³⁸ Risse, *supra* note 35, at 29.

³⁹ Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction, Sept. 18, 1997, 2056 U.N.T.S. 211 [hereinafter Ottawa Treaty or Mine Ban Treaty].

⁴⁰ Geneva Call, Deed of Commitment for Adherence to a Total Ban on Anti-Personnel Mines and for Cooperation in Mine Action, see *Appendix I* [hereinafter the Deed of Commitment or the Deed]. The organisation has recently expanded its mandate and is currently working on the protection of children and sexual violence in armed conflict in addition to the landmine question. The *Deed of Commitment for the Protection of Children from the Effects of Armed Conflict* has already been launched at the end of 2010 and Geneva Call

actors (ANSAs) with the AP mine ban⁴¹. More specifically, by signing the *Deed* they pledge themselves to the following:

- “to adhere [...] to a complete prohibition on all use, development, production, acquisition, stockpiling, retention, and transfer of mines, under any circumstances” (Art.1)
- “to cooperate in and undertake stockpile destruction, mine clearance, victim assistance, mine awareness” and other forms of mine action in the areas under their control (Art. 2)
- “to allow and cooperate in the monitoring and verification of their commitment” (Art. 2)
- “to issue the necessary orders and directives to their commanders and fighters for the implementation and enforcement” of the ban (Art.4)
- “to treat this commitment as one step or part of a broader commitment to the [...] international humanitarian law and human rights” (Art. 5).

Thus in terms of substance, the *Deed of Commitment* is actually much like a shortened and simplified version of the 1997 *Ottawa Treaty*⁴². Yet, it is interesting to note that the *Deed*, in fact, introduces higher standards on a number of issues, e.g. the impact-oriented definition of AP mines, the embracement of the human rights framework by references to the right to life, human dignity, and development⁴³.

The main idea behind the *Deed* is to allow armed groups to officially express their commitment to mine ban and to take ownership in the matter⁴⁴. This is unlike the *Mine Ban Treaty* that like any other international law instrument does not provide any opportunity for non-state actors to become parties, and to offer input as they do not have any legal standing under international law. Against this background, the *Deed of Commitment* provides a platform for greater inclusiveness of armed groups in the development of humanitarian rules. Since its launching, Geneva Call succeeded in gaining the signature under the *Deed* from 42 groups, out of which 26 are still active while four others have changed their status and are now part of the government (i.e. CNDD-FDD, KRG-KDP, KRG-PUK, and SPLM/A)⁴⁵. The utility of the *Deed* has been clearly demonstrated in the

is currently preparing to launch a third instrument on the prohibition of sexual violence and elimination of gender discrimination in armed conflict.

⁴¹ While Geneva Call focuses on a broad group of ANSAs – including entities that claim quasi state-like organization – my analysis will be limited to signatories that may be described as “ordinary” armed groups in accordance with the criteria presented at the beginning of this paper.

⁴² It is important to note that the *Ottawa Treaty* is hard law, while the *Deed of Commitment* does not qualify even as soft law under international law.

⁴³ Soliman Santos, *A Critical Reflection on the Geneva Call Instrument and Approach in Engaging Armed Groups on Humanitarian Norms: A Southern Perspective*, in Armed Groups Project, University of Calgary, http://www.armedgroups.org/sites/armedgroups.org/files/santos_paper.pdf (last visited October 20, 2012).

⁴⁴ Although the use of landmines by criminal gangs and paramilitary groups attached to a state constitutes a serious problem in countries like Cambodia, Colombia, Pakistan and Somalia, nevertheless, they are not provided the possibility to join the system under the *Deed*.

⁴⁵ Geneva Call, *Annual Report 2011*, <http://www.genevacall.org/resources/annual-reports/annual-reports.php>, (last visited November 6, 2012). One may note in passing, that the most recent signatory – Justice and Equality Movement (JEM) from Sudan signed the *Deed* in April 2012. For a list of signatories see *Appendix 2*.

case of 32 signatories (out of which 19 are still active at the moment of writing this paper) from Burma/Myanmar, India, Iran and Somalia that renounced the use of AP mines ahead of an accession to the *Mine Ban Treaty* by their home state⁴⁶. In other instances, a group's signing of the document contributed to reciprocation by the territorial state and signing of the *Ottawa Treaty*. This happened in Sudan, for example⁴⁷. In Burundi, the fact that CNDD-FDD was a signatory of the *Deed* facilitated the acceptance and the implementation of the *Mine Ban Treaty* after the group came to power in 2005. A similar development has been observed with respect to the Iraqi signatories.

The "multiplier effect" of the *Deed* can also be observed in regard to the relationship between the armed groups themselves. The signatories of the *Deed* are, in some cases, able to convince other groups operating in the field to participate in mine action. Or, signing of the instrument by one group may motivate others to follow in the same pattern. This occurred in Burma and Somalia.

A decision to sign the *Deed of Commitment* and observe the mine ban, however, cannot be attributed to one rationale common to all. Diversity of political profiles and goals pursued results in a variety of motivations behind the decision to respect the mine ban. The most typical are the following: averting high human losses within the rank and file linked to utilisation of AP mines; providing protection and improving quality of life for members of the group's constituency; securing international assistance for conducting mine action; demonstrating their capacity to uphold and comply with principles of IHL; and gaining international respectability⁴⁸.

Some major mine using and producing ANSAs (e.g. the National Liberation Army and the Revolutionary Army of Colombia), although participated in limited mine action, they still remain outside the mine ban. Geneva Call observed, however, that reluctance to join the mine ban is seldom linked to disregard of the landmine problem. In most cases, it is rather the insecurity as to the reciprocal behaviour by a respective state, asymmetry in military capability, reluctance to limit military options or subject the group to external scrutiny, the lack of financial resources, fragmentation of command structure and internal power struggles that affect acceptance or rejection⁴⁹.

Going back to signatories and the compliance records. According to Geneva Call, signatories have generally complied with Article 1 and adhered to a total ban on AP mines.⁵⁰ The only disputed cases concerned the MILF, the SPLM/A, and Kongra Gel/HPG

⁴⁶ Given the controversies surrounding Morocco's occupation of Western Sahara, I have not included the Polisario Front in this number. However, while Morocco has not yet consented to be bound by the *Ottawa Treaty*, the Polisario Front has been cooperating for several years with international community on the issue of landmines and it signed the *Deed* in November 2005. The other caveat relates to the Justice and Equality Movement; as the group joined the *Deed* only very recently, there is no information in regard to its implementation record. JEM is thus not included in the analysis. See *Appendix 3*.

⁴⁷ Geneva Call, *Engaging Armed Non-State Actors in a Landmine Ban: The Geneva Call Progress Report: 2000-2007*, 8, <http://www.genevacall.org/resources/research/f-research/2001-2010/gc-2007-progress-report.pdf> (last visited on October 20, 2012).

⁴⁸ Santos, *supra* note 45, at 7.

⁴⁹ *Id.*

⁵⁰ Geneva Call, *supra* note 47, at 16.

that were accused by their respective governments of using AP mines after signing the document. Geneva Call did not discover any definite evidence supporting these allegations. With respect to the MILF, however, it was found that the group was unaware of the fact that the “string-pulled” improvised devices it employed were prohibited explosives under the *Deed*.

A commitment to the total ban does not automatically secure a given signatory’s capacity to conduct mine action (i.e. mine clearance, stockpile destruction, victim assistance, mine awareness and other similar activities in accordance with Article 2). As of June 2010, 12 active signatories (out of 16 that were identified as mine users and/or possessed AP mine stockpiles prior to signing the *Deed*) carried out mine action operations – either alone or in cooperation with specialised organizations⁵¹. Yet, only four groups, the CNF/CNA (Burma), Puntland (Somalia), KONGRA-GEL/HPG/PKK (Turkey) and the Polisario Front (Western Sahara), conducted activities within all pillars of mine action.

More positive results have been achieved in regard to monitoring of their pledge. All of the active groups reported on the implementation measures they have undertaken, though not all of them provided necessary updates in the period 2008-2010⁵². In addition to reporting, ten signatories established special units or appointed focal persons for coordinating the implementation of the *Deed*⁵³.

Positive developments have also been observed with respect to the enforcement measures undertaken by the signatories in accordance with Article 4 of the *Deed*:

- 19 signatories are reported to have issued the necessary orders and/or information to their fighters and commanders;
- 12 have either conducted training for their rank and file or participated in the workshops held by Geneva Call and its local partners;
- four groups have issued more general laws and decrees related to mine action in the territories under their control⁵⁴;
- 6 have introduced disciplinary sanctions for non-compliance in the form of relegation, suspension, expulsion, and/or imprisonment⁵⁵.

It is interesting to observe that the participation in the *Deed*, which is so constructed as to encourage commitment to other IHL rules and human rights, may lead to the phenomenon of normative “spill over.” The leadership of the MILF, for example, passed a resolution condemning “kidnap-for-ransom” activities in Mindanao and providing countermeasures in the areas under the group’s control⁵⁶.

⁵¹ See *Appendix 4*.

⁵² This is the case in Somalia, where the intensification of the conflict has stalled reporting and most of the mine action activities.

⁵³ CNF/CAN, PSLF (Burma/Myanmar); KNO (India); MILF (the Philippines); HPA, Puntland, SNF/SRRC (Somalia); SPLM/A (Sudan); Kongra Gel/HPG/PKK (Turkey), and the Polisario Front (Western Sahara). See Geneva Call, *supra* note 47, at 16.

⁵⁴ Geneva Call, *supra* note 47, at 19.

⁵⁵ NSCN-IM (India); MILF (the Philippines); HPA, SNF/SRRC (Somalia); KONGRA-GEL/HPG/PKK (Turkey) and the Polisario Front (Western Sahara).

⁵⁶ Santos, *supra* note 45, at 10.

Despite the positive results in terms of signatories overall compliance with the mine ban, one should be mindful of the encountered challenges. These include, primarily, the signatories' lack of technical capacity and resources, a lack of security in volatile conflict areas, and hostile positions of some of the respective governments. Turkey and India, persistently consider the signatories of the *Deed* operating on their territory as "terrorist organisations." As a result, Geneva Call's efforts to assist these groups were obstructed. Implementation of the mine ban may also be hampered if the leadership of a group exercises very little or no control over the rank and file. In such cases, a decision undertaken at the higher levels of hierarchical structure often finds little support from the field commanders and fighters (e.g. Somali armed groups).

Socialisation of Armed Groups into the Mine Ban

I will now return to the thesis posed at the beginning, namely: how can the engagement of armed groups through the mechanism of the *Deed of Commitment* ensure their long-term compliance with the mine ban and IHL in general? By applying the "transformed" *spiral* model to the ban on AP mines under the *Deed of Commitment*, this section examines to what extent signatories' abidance by this prohibition may be attributed to socialisation.

Domestic	Armed Group	International
Gathering information on the use of AP mines by a given armed group	1. Systematic use of AP mines	Geneva Call and the landmine ban network: <ul style="list-style-type: none"> • receive information from local organisations • invoke general principles of IHL and/or the group's obligations flowing from its "belonging" to a state party to the <i>Ottawa Treaty</i> • attempt to establish contacts with a given group
Facilitating the establishment of the contacts with a group	2. Denial	Sustained second-track diplomatic efforts to encourage the group to accept the mine ban
Cooperating with the landmine ban network	3. Participation in the <i>Deed of Commitment</i>	Monitoring and documenting of the progress (or the lack thereof) in the group's fulfilment of its obligations under the <i>Deed</i>
Participation in monitoring of the group's commitment to the mine ban	4. Implementing the <i>Deed</i> Compliance with the mine ban	

Figure 2. The "transformed" spiral model of socialisation of armed groups into the mine ban

Source: own.

Phase 1: Systematic use of AP-mines by armed groups

Since its establishment, Geneva Call identified approximately 60 ANSAs worldwide as frequent mine users and/or producers. While analysing the modalities of the landmine use, Geneva Call established it was possible to persuade some groups to either entirely renounce or at least significantly reduce the use of victim-activated devices.

Phase 2: Denial

Engagement of an armed group in a dialogue on the mine ban marks the beginning of the socialisation process. As observed by Geneva Call, most of the approached groups seem to recognize the extent of the landmine problem. While some continue to use the AP mines, they are compelled to justify their conduct. The most relevant factors when deciding whether to keep or renounce the use of prohibited explosives are the following: fear of being placed in a disadvantageous position vis-à-vis government forces or other warring parties, overall asymmetry in military capability, reluctance to limit military options available, fear of external scrutiny and negative publicity, lack of financial resources necessary to provide the rank and file with alternative weapons.

Phase 3: Participation in the Deed of Commitment

Armed groups commit themselves to respect the prohibition when the benefits of the participation under the *Deed* (e.g. enhancing the protection of the group's rank and file and its constituency; improving the stability and quality of life for people living in the areas controlled by a given group; securing international assistance for conducting mine action; demonstrating the capacity to uphold and comply with principles of IHL; gaining international respectability) outweigh the costs referred to in the preceding paragraph.

Phase 4: Implementing the Deed of Commitment

A group's fulfilment of its obligations under the *Deed* is a reflection of the mine ban acquiring "prescriptive status." Signatories are expected both to comply with the total prohibition on the use of victim-activated devices, and to monitor their own progress in the implementation. Participation in the *Deed of Commitment* has far-reaching consequences on signatories' behaviour. This has been particularly evident with respect to the Moro Islamic Liberation Movement. The group had to stop using "string-pulled" improvised devices identified as prohibited under the *Deed* by Geneva Call's verification mission. Another important indicator of a group's recognizing the validity of the mine ban is its overall compliance record. This could be summarised as follows:

- 16 signatories, all that are still active and that had been identified as mine users prior to joining the *Deed*, carried out and/or participated in at least one of the pillars of mine action;
- 19 signatories issued the necessary orders and/or disseminated information to their commanders and fighters;
- 12 signatories have either conducted internal training for their rank and file or participated in the workshops held by Geneva Call and its local partners;
- all signatories reported to Geneva Call on their progress in implementing the *Deed of Commitment*, although some failed to provide the updated information.

Phase 5: Compliance with the prohibition on AP mines

Continuous cooperation with Geneva Call seem to play an important role in the transition from the mine ban acquiring “prescriptive status” and its embedding in signatories’ practices. At least four signatories seem to be approaching the final stage of *socialisation*. These include: the Hiran Patriotic Alliance and the Somali National Front, the Turkish Kurdistan Workers’ Party, and the Polisario Front⁵⁷. They have not only adhered to the total ban, conducted mine action and cooperated in monitoring, but they also established special posts to supervise abidance by the mine ban and introduced internal disciplinary sanctions. We thus observe a gradual overtaking of the responsibility for overseeing compliance with the prohibition, an indication of incorporating the rule into the group’s practices.

The *Deed of Commitment*: Critical Reflections

Neither the mixed implementation record nor the relatively low number of signatories that managed to fulfil all the obligations under the *Deed*, supports the conclusion that socialisation is non-existent or irrelevant. The process of accepting and institutionalising a rule is gradual, and there is no universal time line applicable to all signatories. While the stages of the process will, for the most part, be the same for all of them, differences arise with respect to how much time is needed to move from one phase to the other. The variation in the progress of socialisation is to a large extent a result of the interplay between “facilitating” and “blocking” factors like the existence of “peer pressure” between the groups; (non) existence of a peace process; fragmentation of command structure; the lack of reciprocal behaviour by government forces and/or other warring parties; persistent labelling as a terrorist organisation; the overall resentment of the respective government towards Geneva Call’s initiative.

The system under the *Deed of Commitment* has clearly a number of advantages. Firstly, in contrast to other (quasi-) legal instruments of engaging armed groups with IHL (e.g. special agreements, unilateral declarations, codes of conduct etc.)⁵⁸, the *Deed of Commitment* has one additional advantage – it establishes a comprehensive mechanism to monitor armed groups’ commitment in practice. What is particularly relevant is the inclusion of a group itself, who is thus vested with the primary responsibility for reporting on the progress in the implementation. Furthermore, as Geneva Call provides assistance when needed, participation in the *Deed* allows armed groups to build their capacity to effectively put their commitment to the mine ban into practice.

Secondly, the utility of the *Deed* is particularly evident when armed groups operate on the territory of states not parties to the *Ottawa Treaty*. A majority of signatories re-

⁵⁷ While this conclusion may be somehow debated in regard to the HPA that was never an AP mine user, the three remaining signatories represent a stronger case for my argument.

⁵⁸ See Michelle Mack, *Increasing Respect for International Humanitarian Law in Non-International Armed Conflicts*, ICRC, http://www.icrc.org/eng/assets/files/other/icrc_002_0923.pdf (last visited January 15, 2011).

nounced the use of AP mines in the absence of the corresponding commitment by their respective governments. In yet other instances, a given group's participation in the *Deed* has either triggered the home state's accession to the *Mine Ban Treaty* or accelerated its implementation. Signing of the *Deed* by one group has, in some cases, either encouraged/pressured other groups to follow in a similar vein or, at minimum, to limit the use of AP mines and conduct mine action activities.

Thirdly, the *Deed of Commitment* goes beyond merely advocating the total ban on AP mines. By invoking the obligations of non-state actors under IHL and human rights, it has evolved into a measure of humanitarian and human rights law. Participation in the *Deed* may become a starting point for engaging armed groups with a broader framework of "humanitarian norms"⁵⁹. The actions undertaken by the MILF to counteract the kidnapping phenomenon in Mindanao and subsequent to its joining of the *Deed* is a case in point.

On the other hand, the system under the *Deed of Commitment* is not free from limitations. Critics point out that as an externally prepared statement, the *Deed* is insensitive to the local contexts and as such opened to misinterpretations and abuse⁶⁰. Geneva Call's initiative has also been criticised for its "a total ban-or-nothing" approach. Owing to such a requirement, some major AP mine users and producers remain outside the system. Finally, the *Deed's* introduction of a higher standard as compared to the *Ottawa Treaty* may, in fact, discourage armed groups from signing it out of fear of being placed in a disadvantageous position vis-à-vis government forces.

While some of these criticisms rightly point out to the shortcomings of Geneva Call's initiative, I am strongly opposed to classifying the *Deed's* insensitivity to the local contexts as one of them. Bearing in mind fundamental character of IHL regulations, attempts to make compliance therewith dependent on the local particularities may result in undermining the status and universal applicability of humanitarian rules in general and the mine ban in particular. While taking account of "the local" is crucial when designing the tools of engagement, it cannot lead to the introduction of different standards or thresholds when implementing these very rules. In my view, it is but rather the lack of a timeline and specific benchmarks to assess the progress of implementation that constitute the main weaknesses of the *Deed*. The absence of these carries the potential risk of turning the implementation of the mine ban into a process of no end-result.

⁵⁹ Geneva Call attempts to expand its mandate to cover other issues, e.g. the use of children and the rights of women during armed conflicts. The new *Deed of Commitment for the Protection of Children from the Effects of Armed Conflict* was announced on November 2, 2010. However, because international law criminalises conscripting of children for purposes of combat (*Rome Statute* Art. 8 (2) (e)), if such acts are committed, the issue of whether this prohibition was internalised (or not) will not have any significance for proving the crime.

⁶⁰ Santos, *supra* note 45, at 16.

Conclusion

At the beginning of this paper thesis were put forward whether existing enforcement mechanisms under IHL are sufficient to obtain compliance by armed groups. Criminalisation of violations has been and will remain the main such mechanism. Yet, resorting to international prosecutions can be limiting because the law does not sanction every breach of humanitarian rules or, where sanctions exist, jurisdiction either over subject matter or persons might equally be limited. It is therefore necessary to develop supplementary mechanisms. Socialisation, activated through positive engagement of armed groups, is particularly relevant in this context. In contrast to punitive processes, socialisation aims to ensure respect for law by seeking the actor's recognition of its validity. Once the process is finalised, the rule becomes internalised in deeply ingrained practices. This, in turn, is manifested by the transformation of behaviour in accordance with the accepted rule.

I argued in this paper that Geneva Call's engagement of armed groups with the mine ban under the *Deed of Commitment* is a demonstrable example of how the process of socialisation induces rule-consistent behaviour in the long term. Since launching of the *Deed of Commitment*, 41 groups signed the document and thus committed themselves to respect the total ban on AP mines. The overall compliance record indicates that all active signatories have accepted the validity of the prohibition, manifested by their efforts to implement the *Deed*.

Despite the fact that armed groups are at present denied treaty-making capacity under international law, it is interesting to observe whether developments on the ground will lead to any change in this regard. Initiatives like the *Deed of Commitment* enable armed groups to obtain a sense of ownership of the humanitarian rules and thus contribute to their compliance. This finding is largely consistent with Marco Sassòli's argument that IHL in general can only be effective if it takes account of the aspirations, dilemmas and problems encountered by all the parties to armed conflicts that are expected to comply with the law.

Appendices

1. The *Deed of Commitment*, source: Geneva Call on www.genevacall.org/resources/resources.htm.
DEED OF COMMITMENT UNDER GENEVA CALL FOR ADHERENCE TO A TOTAL BAN ON ANTI-PERSONNEL MINES AND FOR COOPERATION IN MINE ACTION
WE, the (name of the non-State actor), through our duly authorized representative(s):
 - *Recognising* the global scourge of anti-personnel mines which indiscriminately and inhumanely kill and maim combatants and civilians, mostly innocent and defenceless people, especially women and children, even after the armed conflict is over;
 - *Realising* that the limited military utility of anti-personnel mines is far outweighed by their appalling humanitarian, socio-economic and environmental consequences, including on postconflict reconciliation and reconstruction;

- *Rejecting* the notion that revolutionary ends or just causes justify inhumane means and methods of warfare of a nature to cause unnecessary suffering;
- *Accepting* that international humanitarian law and human rights apply to and oblige all parties to armed conflicts;
- *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;
- *Resolved* to play our role not only as actors in armed conflicts but also as participants in the practice and development of legal and normative standards for such conflicts, starting with a contribution to the overall humanitarian effort to solve the global landmine problem for the sake of its victims;
- *Acknowledging* the norm of a total ban on anti-personnel mines established by the 1997 Ottawa Treaty, which is an important step toward the total eradication of landmines.

NOW, THEREFORE, hereby solemnly commit ourselves to the following terms:

- TO ADHERE to a total ban on anti-personnel mines. By anti-personnel mines, we refer to 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. By total ban, we refer to a complete prohibition on all use, development, production, acquisition, stockpiling, retention, and transfer of such mines, under any circumstances. This includes an undertaking on the destruction of all such mines.
 - TO COOPERATE IN AND UNDERTAKE stockpile destruction, mine clearance, victim assistance, mine awareness, and various other forms of mine action, especially where these programs are being implemented by independent international and national organizations.
 - TO ALLOW AND COOPERATE in the monitoring and verification of our commitment to a total ban on anti-personnel mines by Geneva Call and other independent international and national organizations associated for this purpose with Geneva Call. Such monitoring and verification include visits and inspections in all areas where antipersonnel mines may be present, and the provision of the necessary information and reports, as may be required for such purposes in the spirit of transparency and accountability.
 - TO ISSUE the necessary orders and directives to our commanders and fighters for the implementation and enforcement of our commitment under the foregoing paragraphs, including measures for information dissemination and training, as well as disciplinary sanctions in case of non-compliance.
 - 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.
 - 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.
 - We understand that Geneva Call may publicize our compliance or non-compliance with this *Deed of Commitment*.
 - We see the desirability of attracting the adherence of other armed groups to this *Deed of Commitment* and will do our part to promote it.
 - This *Deed of Commitment* complements or supercedes, as the case may be, any existing unilateral declaration of ours on anti-personnel mines.
 - This *Deed of Commitment* shall take effect immediately upon its signing and receipt by the Government of the Republic and Canton of Geneva which receives it as the custodian of such deeds and similar unilateral declarations.
2. The list of signatories of the *Deed of Commitment*, source: Geneva Call on www.genevacall.org/resources/resources.htm.
 3. The list of states non-parties to the *Mine Ban Treaty*, source: International Campaign to Ban Landmines on www.icbl.org/index.php/icbl/Universal/MBT/States-Not-Party.
 4. Chart on the Progress of Implementation of the *Deed of Commitment* (2008-10).

USPOŁECZNIANIE MIĘDZYNARODOWYCH ZASAD. BADANIE ALTERNATYWNYCH MECHANIZMÓW DLA GWARANTOWANIA ZGODNOŚCI Z MIĘDZYNARODOWYM PRAWEM HUMANITARNYM (IHL) W DZIAŁANIU UGRUPOWAŃ ZBROJNYCH

Rozprzestrzenianie się międzynarodowych konfliktów zbrojnych gromadzi wyzwania dla zakresu oddziaływania międzynarodowego prawa humanitarnego (IHL), którego założycielską ideą było kształtowanie zasad zachowania państw w czasie wojen. Dlatego należy zadać pytanie, czy istniejące mechanizmy w zakresie międzynarodowego prawa humanitarnego (IHL) są wystarczające, aby zapewnić zgodność w zakresie prawnym w odniesieniu do funkcjonowania ugrupowań zbrojnych? Ideą tego artykułu jest zbadanie, jak uspołecznienie, przez którą autorka postrzega proces umiędzynarodowienia zasad lub reguł, tak aby zewnętrzny wpływ nie był dalej konieczny, w zapewnieniu zgodności, co w perspektywie może być źródłem do tworzenia długoterminowych spójnych zasad zachowań. We wstępie artykułu wyszczególniono ramy prawne mające zastosowanie w konfliktach zbrojnych oraz wyzwań towarzyszących ich wdrażaniu. W dalszych rozważaniach jest prezentowana dyskusja koncepcji uspołeczniania oraz jej przydatność w kontekście międzynarodowego prawa humanitarnego (IHL) oraz działania ugrupowań zbrojnych. W dalszej części autorka przechodzi do prezentowania wybranych przykładów pozytywnej współdziałania z takimi ugrupowaniami w ramach tzw. „Deed of Commitment”, czyli inicjatywa aktów dobrej woli zorganizowana przez Szwajcarskie Organizacje Pozarządowe (NGOs), Geneva Calls. Ostatecznie autorka powraca do analitycznego obszaru badawczego i odnosi wyniki badań do ram działań w systemie ustanowionym przez „Deed of Commitment”, aby ostatecznie ocenić w jakim zakresie uspołecznienie oraz pozytywne zaangażowanie mogą zapewnić większe zrozumienie dla stosowania humanitarnych zasad. W podsumowaniu, stwierdza się, że uspołecznienie jest znakomitym narzędziem, który może uzupełniać mechanizmy funkcjonowania międzynarodowego prawa humanitarnego (IHL) oraz w szczególnych warunkach wносить wartość dodaną do długoterminowych spójnych zasad zachowań.