



## Verifying Compliance with the Anti-Personnel Mine Ban: Geneva Call's Experience with Armed Non-State Actors

3 December 2010, Palais des Nations, Geneva

On 3 December, Geneva Call, with the support of the Swiss Federal Department for Foreign Affairs, held a panel discussion on the subject of verifying compliance with humanitarian commitments made by armed non-State actors (NSAs). The event focused on the experience of Geneva Call in monitoring the *Deed of Commitment for Adherence to a Total Ban on Anti-Personnel Mines and for Cooperation in Mine Action* (hereafter the *Deed of Commitment*), in particular its recent verification mission to the Philippines. The event, which took place on the sidelines of the 10th Meeting of States Parties to the Anti-Personnel (AP) Mine Ban Convention, was opened by Ambassador Jürg Lauber, the Permanent Representative of Switzerland to the Conference of Disarmament. It brought together more than 50 participants, including representatives of concerned States, United Nations (UN) agencies, the International Committee of the Red Cross (ICRC), the International Campaign to Ban Landmines, Landmine Monitor and research institutes.

Monitoring and verification mechanisms are essential to the credibility of any humanitarian engagement process. Conflicts often do not emanate from disputes over the law itself, but as a result of disagreement as to the facts at issue. Allegations of non-compliance with humanitarian commitments must therefore be seriously addressed, with the active cooperation of all relevant stakeholders.

From the perspective of international humanitarian law (IHL), there are three different types of fact-finding mechanisms to investigate allegations of IHL violations. First, fact-finding mission can be conducted with the agreement of the parties to conflict. This type of mechanism is mentioned in the 1899 Hague Convention. Agreement can also be concluded before the dispute actually arises, as illustrated by the International Humanitarian Fact Finding Commission (IHFFC) foreseen under the First Additional Protocol to the 1949 Geneva Conventions. The IHFFC was officially constituted in 1991 but has not yet carried out a mission to date. Second, fact-finding commissions can be established by an international organization without the agreement of the parties to conflict. The UN has sent a number of missions in this "authoritative" way in recent years, for example in Darfur or Gaza. Lastly, private law organizations, such as the ICRC and Geneva Call, can conduct fact-finding missions with the permission of the conflicting parties.

Under the Geneva Call's *Deed of Commitment*, signatory NSAs agree to cooperate in the monitoring of their compliance. This includes providing information through the completion of standardized compliance reports, statements at Meetings of Signatories to the *Deed of Commitment* and, when necessary, the provision of specific information and clarifications at the request of Geneva Call. If credible and serious allegations of non-compliance occur, signatory NSAs are required to allow for and facilitate ground level verification. In its 10 years of existence, Geneva Call has encountered very few allegations of non-compliance. Nearly all signatory NSAs have abided by their obligation to cooperate in the monitoring of their pledge, providing information and reports on measures they have taken to implement the *Deed of Commitment*. No signatory has ever refused to receive a Geneva Call mission. In one case, the concerned State has not given permission for enquiries to proceed within its territory, but in three other instances Geneva Call was able to conduct a verification mission with the active cooperation of all stakeholders involved.

The most recent Geneva Call verification mission took place in November 2009 in the Philippines to investigate allegations of violations of the *Deed of Commitment* by the Moro Islamic Liberation Front (MILF). The Government of the Republic of the Philippines (GRP), from where most of the allegations emanate, supported the initiative to honor its obligation under the AP Mine Ban Convention and to contribute to deter landmine use by NSAs. Initially, the GRP had some concerns with regards to the mission. The main concern was the security of the verification team, since during the time of the inquiry, fighting and kidnapping for ransom still continued in the area. The GRP was also uncertain if the MILF would accept to come under scrutiny and there were concerns about the neutrality of the whole endeavor. The MILF quickly agreed to facilitate the inquiry and retrospectively, the mission was perceived as a success by all stakeholders involved. The verification team was able to proceed safely with the active cooperation of both parties to the conflict. It found that AP mines had indeed been used in at least two instances but was not able to establish definitively whether the MILF was responsible for these incidents. Yet, the MILF accepted the recommendations of the mission to incorporate the AP mine ban into its code of conduct and to further disseminate it within their ranks.

During the event, all panelists emphasized that the cooperation of all parties involved, particularly the concerned State and the NSA, is essential for efforts to verify compliance with humanitarian commitments. Geneva Call's experience in the Philippines clearly indicates that such cooperation is possible and that fact-finding missions can be successfully conducted with the agreement and facilitation of both parties, even in situations of active armed conflict.

This panel discussion was the third of a series of events, organized by Geneva Call with the support of the Swiss Federal Department for Foreign Affairs, on the issue of humanitarian engagement with NSAs. Previous events took place last July in New York and last October in Brussels.