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Binding Non-State Armed Groups to International Humanitarian Law

Geneva Call and the Ban of Anti-personnel mines: Lessons from Sudan

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Summary

Since the end of the Second World War the majority of armed conflicts has no longer been fought between states but takes place within the territory of a single state. At least one non-state armed group (NSAG) is involved. In such conflicts NSAGs challenge state- and peace-building processes with violent or criminal acts. Furthermore, by directly affecting peoples' physical security and by undermining state authority they also pose a dangerous threat to human security. The daily life of many civilians is severely endangered by their existence.

One violation of International Humanitarian Law (IHL) which is committed by non-state armed groups is the use of anti-personnel mines (AP mines or APMs). APMs are indiscriminate and inhumane weapons. They still maim and kill ordinary people every day: Hardly any other weapon claims so many human lives. Consequently, in 1997 the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction was adopted. The so-called Ottawa-Treaty completely bans all anti-personnel mines. Despite this, the goal of a world free of mines is still not realized. While it is true that the number of states using APMs has decreased in the last decade, APMs are, nonetheless, far more frequently deployed by non-state actors. Armed groups often have fewer military resources than states, and are therefore more likely to resort to the use of landmines.

In spite of its significance, the Ottawa Treaty provides no opportunity for NSAGs to express their willingness to abide by its norms. However, the findings above demonstrate that global norms such as the ban of anti-personnel mines, must also apply for NSAGs in order to achieve a mine-free world. Besides, empirical evidence shows that it is quite possible to bind non-state actors to humanitarian norms. One pioneering initiative in engaging NSAGs is Geneva Call, an NGO based in Geneva, Switzerland. Since 2000, the organization is dedicated to engage armed non-state actors towards compliance with the norms of international humanitarian law and human rights law, starting with a total ban on anti-personnel mines. The engagement of the NGOs began with the development of a *Deed of Commitment for Adherence to a Total Ban on Anti-Personnel Mines and for Cooperation in Mine Action* (referred to below as the Deed of Commitment, DoC). Through signing the Deed of Commitment armed groups commit themselves to stop the use, production, stockpiling and transfer of anti-personnel mines. In addition a ban on AP mines and the general idea of humanitarian norms, the Deed of Commitment also specifies implementation and monitoring mechanisms. In this way, Geneva Call involves NSAGs directly in obligations to observe humanitarian norms.

Negotiations between Geneva Call and armed groups are often meetings of a special kind: Most recently, in June 2009 representatives of 28 NSAGs met in Geneva and discussed possibilities for binding armed groups to IHL. Since its launch, Geneva Call has engaged in dialogue with more than 60 NSAGs worldwide. Of these, so far 41 groups from Asia, Europe and Africa have signed the Deed of Commitment. Geneva Call's engagement is outstanding in two ways: On the one hand, the NGO functions as a norm entrepreneur vis-à-vis non-state armed actors and not (like other NGOs) vis-à-vis states or

corporations. On the other hand, with the DoC Geneva Call has established an innovative mechanism, with which NSAGs can commit themselves to humanitarian law and for the first time become signatories to an internationally respected treaty.

The very notion of an adherence to the mine ban norm by NSAGs seems at first glance to contradict the conventional assumption that NSAGs have in principle only limited interest in accepting norms, because they do not regard themselves as bound by *inter*national treaties. However, latest the success of Geneva Call shows that non-state armed groups can no longer be regarded only as a challenger to peace governance. By signing the Deed of Commitment, NSAGs are achieving a new position in a global normative order.

Because successful integration of NSAGs requires comprehensive understanding of these groups, the present report asks how a norm acceptance by NSAGs can be explained. If we learn more about the conditions under which integration of these actors proceeds successfully, recommendations for practice can also be worked out. Thus, the goal was to investigate why NSAGs voluntarily commit themselves to humanitarian norms. For this purpose, with the help of process-analytic procedures the norm acceptance of one NSAG – the Sudan People's Liberation Movement/Army (SPLM/A) – was investigated. As one of the first NSAGs to do so, the SPLM/A signed the Deed of Commitment in 2001, although at that time it was still engaged in conflict with the government. The analysis showed that a number of factors played a role in their acceptance of the norm. On the one hand, transnational pressure influenced the decision of the SPLM/A to sign the DoC. Transnational strategies of shaming them had an influence on this NSAG, particularly because they had a strong need for legitimacy and consequently feared a loss of reputation. The analysis also showed that a "shadow of future statehood" not only increases an NSAG's need for legitimacy but also raises their awareness about the material costs a later assumption of power would entail. Their concern that they would not be able to carry out the rebuilding of their country on their own contributed decisively to the norm acceptance by the SPLM/A. In the case investigated in this report, finally, humanitarian issues also played a role in the signing of the Deed of Commitment. Within the NSAG, it was primarily the function of two former SPLM/A commanders which was decisive. These two played the role of norm entrepreneurs within the movement, and directed the attention of the SPLM/A leadership to negative consequences of the use of landmines. Consequently, no single explanatory factor can be identified for the norm acceptance by the SPLM/A. Instead, the signing of the Deed of Commitment can be attributed to a combination of factors, each of which accounts for the decision to accept the norm.

The results obtained make it possible to draw a few conclusions on possible starting points for the international community for possible engagement strategies with non-state armed groups. On the one hand, it seems promising to change the cost-benefit calculation of the norm-violating NSAG in such a way that the costs of norm violation exceed its benefits. This is possible by denouncing an NSAG so that it is concerned about its reputation; but may also be possible if external actors threaten to withdraw their (financial) support in the event of a further norm violation. The offer to support an NSAG

in clearing mines in the area they control can decisively influence its renunciation of AP mines. On the other hand, the example of the SPLM/A shows, that an NSAG can also be convinced of the appropriateness of a norm through dialog.

The finding also suggests that governance initiatives beyond a state-centered, hierarchical and repressive mode of governance are more effective in dealing with non-state armed actors: For NGOs questions of state sovereignty and non-interference are not as decisive as these are to states. A possibility for state actors thus offers itself through the employment of NGOs for including non-state armed groups in a political order.

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In the end, the choice for or against
a ban on landmines
is a choice for cosmopolitan humanism
against nationalist self-interest.

Jef Van Gerwen

May armed groups then make the ethical choice.

Soliman Santos

1. Introduction[1]

During the last decade, non-state armed groups (NSAGs),[2] which play a major role in the majority of armed conflicts worldwide, have received increasing attention from the international community. Whereas many studies have focused only on the role of NSAGs in conflict management and resolution (Conciliation Resources 2004), the present report asks how the peace-endangering potential of non-state armed groups can effectively be contained. For this purpose, it focuses on the example of a violation of international humanitarian law which nowadays is committed mainly by NSAGs: the use of anti-personnel mines. Branded a "deadly plague," the "scourge of humanity," or "weapons of mass destruction in slow motion", APMs constitute the cruelest and most insidious weapon of our age. Hardly any other weapon claims so many human victims. Every day mines kill and injure mainly civilians; every fifth victim is a child. APMs are so dangerous because they know nothing about peace. Even decades after the end of a conflict, the civilian population is threatened by previously laid mines. They inhibit the economic development of a country in the long term and destroy its infrastructure. Farming areas where mines are suspected lie fallow; mined roads and streets cut off whole regions from the external world. The consequences of mines are drastic.

For this reason, in 1997 the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction, known as the Ottawa Treaty, was adopted. Until now the treaty has been ratified by 156 states. Despite

1 The empirical analysis in this report is based mainly on interviews which I carried out in the framework of my master's thesis. First of all I want to thank the PRIF staff for supporting my project. Special thanks also go to Pascal Bongard who provided me with much-needed information and to Julian Schäfer for daily consultations on practical and theoretical problems during the research process.

2 In the following sections an NSAG is understood to be "any armed actor operating outside state control that uses force to achieve its political/quasi-political objectives" (Geneva Call 2008). It is true that many authors call for a broad definition of NSAGs which considers armed non-state actor to be any group challenging state power and the state's monopoly on the use of force (see Policzer 2005: 8). However, such a broad definition is not helpful for the present analysis since the great variation among groups only makes finding an explanation for possible acceptance of norms more difficult (see Florquin/Decrey Warner 2008: 17).

this, the goal of a mine-free world is far from being achieved even 13 years after its adoption. While it is true that the number of states using AP mines has decreased in the last decade, APMs are, nonetheless, far more frequently deployed by non-state actors.

Anti-personnel mines have become the weapons of choice for many parties in internal conflict, as they are cheap, easy to lay, and highly effective in killing and maiming human beings (ICRC 2007: 9). Since armed groups usually have fewer military resources than states, it is more likely that they will have to resort to the use of AP mines. The result of this is that the number of non-state users is many times higher than that of state users. NSAGs thus constitute the "main users of the poor man's weapon" (Sjöberg 2006). As a result, it is obvious that global norms such as the banning of mines will have to involve NSAGs in order to achieve a mine-free world (Policzer 2005: 9). Despite this, in the last 10 years 41 NSAGs have signed a voluntary declaration through which they commit themselves to stop the use, production, stockpiling or transfer of anti-personnel mines. This *Deed of Commitment for Adherence to a Total Ban on Anti-Personnel Mines and for Cooperation in Mine Action* (referred to in the following as Deed of Commitment or DoC) was developed in 2000 by the Swiss NGO Geneva Call. This NGO has the goal of incorporating non-state armed groups directly into a ban on anti-personnel mines. Its guiding principle is: If NSAGs are part of the problem; they need to be part of the solution too.

The renunciation of mines by non-state armed groups is surprising from several points of view. On the one hand, anti-personnel mines often have important strategic significance for NSAGs, so that dispensing with their use would have to be connected with high costs. On the other hand, acceptance of the norm seems to contradict the conventional assumption that in principle NSAGs have only limited interest in accepting norms because they do not regard themselves as bound by international norms.[3] In addition, at the latest since the attacks of 9/11 NSAGs are as a rule perceived as the "bad guys" of world politics, and not infrequently are linked with transnational terrorist groups. Possible engagement with them is then strictly rejected with the comment that recognizing them as negotiating partners would lend them legitimacy.

How important it is to bind NSAGs to international humanitarian law has, however, been recognized in recent years. For instance, as early as 2004 Kofi Annan emphasized that the establishment of international standards among NSAGs would have to be given the highest priority (UN 2004), and Ban Ki-Moon too pronounced: "The United Nations must be able to talk to all warring parties, including armed groups. Failure to do so is always likely to mean more, not fewer, civilians killed and wounded. I urge member States to accept this necessity" (UN 2009). Indeed, the engagement of Geneva Call shows that the inclusion of non-state armed groups by means of dialogue and mechanisms of persuasion is an alternative to demonizing these actors (Geneva Call 2007b: 32).

3 The ICRC for instance draws attention to the fact that in many cases non-state armed groups deny the validity of humanitarian law with the justification that these are created by states and thus have no application to non-state actors (ICRC 2007: 47). "Members of armed groups party to non-international armed conflicts have little incentive to adhere to IHL [International Humanitarian Law] given the fact that they are likely eventually to face domestic criminal prosecution and serious penalties for having taken part in the conflict even if they comply with IHL" (ICRC 2007: 61). Regarding this ambivalence see also Krieger (2009).

The role of non-state armed groups is much more ambivalent than it seems at first glance. On the one hand, through the use of (military) force NSAGs attack the core function of the state, namely establishment of security, and in many cases hamper processes of state- and peace-building. On the other hand, NSAGs are genuinely in a position to provide protection and safety to civilians in regions in which the state monopoly on the use of force is only weakly established (Chojnacki/Herchenbach 2007). Under which conditions an NSAG functions more as a spoiler or as a governance actor is still unclear (Schneckener 2009). Consequently, the present report focuses on the question of how acceptance of the norm by non-state armed groups can be explained. Geneva Call emphasizes: "In view of Geneva Call's experience, understanding the concerns and motives articulated by NSAs [non-state actors] is fundamental" (Geneva Call 2007a: 31).

The causes of the norm acceptance are investigated in a concrete case: the signing of the Deed of Commitment by the Sudan People's Liberation Movement/Army (SPLM/A). The SPLM/A, founded in 1983 to fight against the structural differences between the north and the south of Sudan, signed the Deed of Commitment as one of the first NSAGs in 2001 and, since the signing of the peace treaty of 2005, has been part of a joint government of national unity.

For the following analysis of the renunciation of landmines, in Chapter 2 the integration of non-state armed groups in a mine ban will be examined initially in general terms, and potential explanatory factors for the norm acceptance identified. After this, background information on the civil war in Sudan and the NSAG which was investigated will be presented. Chapter 4 describes the phenomenon which is to be explained, the norm acceptance by the SPLM/A. Subsequently, in chapter 5 the tenability of reasons which may account for the signing of the DoC are tested. Chapter 6 brings the results together and indicates starting points for the international community for interacting with NSAGs. In chapter 7 a conclusion is drawn.

2. The integration of non-state armed groups into a mine ban

2.1 Non-state armed groups - bound by international regulation?

With the Ottawa Treaty an agreement in international law which declares the use, stockpiling, production and transfer of anti-personnel mines illegal has already existed since 1997. The so-called "Ottawa Process" created a new humanitarian norm which is also largely observed by those states who have not yet become parties to the convention (such as the U.S.). However, the convention has also drawn particular attention because of the way it came into existence: Civil society groups played a decisive role in furthering the ban on mines. In no other area of arms control have NGOs and their global network, the International Campaign to Ban Landmines (ICBL),[4] had influence of such magnitude as was the case during the negotiations in Ottawa.

4 At present, the ICBL unites more than 1,400 organizations in 90 different countries.

However, whereas states can express their adherence to a ban on mines by signing and ratifying the Ottawa Treaty, for a long time NSAGs only had the possibility of openly committing themselves to a ban on anti-personnel mines by publishing a unilateral declaration of intention or by incorporating it into their own codes of conduct. It is true that since the adoption of the Geneva Conventions NSAGs have been committed to international humanitarian law to a limited extent.[5] In comparison with agreements affecting conflicts between states, however, international humanitarian law for non-international conflicts continue to be rudimentary. In addition, they are frequently only aimed at obtaining agreement from state actors, and regard acceptance by NSAGs as irrelevant. "Hence, even serious acts of violence committed by non-state groups could not, by definition, be treated with the same body of instruments" (Policzer 2005: 8). This grievance can primarily be attributed to the fact that state actors often shy away from engaging NSAGs. They fear that even a partial status for NSAGs as legal subjects in relation to international humanitarian law could be the first step in an undesirable legitimation process (Krieger 2009: 13).[6] The international community is therefore confronted with an engagement dilemma (Dudouet 2009: 8).

Consequently, NSAGs are mostly perceived as outlaws and rule-breakers. However, by regarding them as such states fail to recognize reality. That non-state armed actors are perfectly capable of being bound by humanitarian norms is shown by the work of Geneva Call. The Geneva-based NGO is playing a pioneer role in promoting the humanitarian responsibility of non-state armed groups. In doing this, Geneva Call functions as a norm entrepreneur vis-à-vis non-state armed actors and not (like other NGOs) only vis-à-vis states or corporations. Over and above that, with the Deed of Commitment the Geneva NGO has made an innovative mechanism available, with the help of which NSAGs can bind themselves to international law and become signatories to an internationally recognized body of rules.[7]

The DoC has four key elements: in addition to a) the *adherence* of humanitarian principles and b) the *assistance* for the implementation of the norms, it also involves c) *accountability* in the event of norm violation[8] and d) *participation* in the norm generating

5 See Schaller (2007) and Kretzmer (2009). A minimum standard in international humanitarian law which is binding for "every party involved in the conflict" (Art. 3, Par. 1) in non-international conflicts contains for instance the common article 3, which is to be found in identical form in all four conventions. The Supplementary Protocol II from 1977 extends the guarantee of basic rights of respect for the person in internal armed conflicts beyond the minimal consensus of the common articles, but has only limited applicability (cp. also Herr 2010).

6 A subject of international law is the bearer of rights and duties whose behavior is directly governed by international humanitarian law. States are primarily regarded as the undisputed subjects of international law. Many states fear that assigning an identity in international law would afford non-state armed groups the same treatment as states, and as a result reject assigning such an identity.

7 Since 2009 a "Rebel Group Declaration of Adherence to International Humanitarian Law on Landmines," which was developed by the Philippine Campaign to Ban Landmines, exists alongside the Deed of Commitment. However, this initiative is restricted to a particular region and has only been signed by three NSAGs up until now (Landmine Monitor 2009: 8).

8 It is true that a violation of the norm is not subject to direct sanctions. Still, in the event of a norm violation, naming and shaming strategies are carried out by Geneva Call and threaten the NSAG, as these strategies could lead to loss of reputation (Grävingholt et al. 2007: 32).

processes. In addition to the acceptance of the ban on AP mines and to the general idea of humanitarian norms, the Deed of Commitment thus also specifies measures for implementation as well as mechanisms with whose help NSAGs can be made accountable for their behavior. By signing the DoC they thus commit themselves not only to reporting regularly on measures for implementing it, but also to allowing verification commissions in the field (Santos 2003). The Deed of Commitment actually includes stricter monitoring and verification mechanisms than the Ottawa Treaty (see Findlay 1999: 45).[9] The DoC thus provides the basis "on which legal representations can be made and on which accountability can be required" (ICRC 2007: 50).

The work of Geneva Call has been praised on multiple occasions. It was recognized as "one of the most innovative forms of persuading armed groups to make unilateral declarations to abide by IHL norms" (Coalition to Stop the Use of Child Soldiers 2007: 27), and Ban Ki Moon called the Deed of Commitment a "successful example" of special agreements with non-state actors (UN 2009). Geneva Call's engagement thus shows that NSAGs can no longer only be regarded as disquieters, to whom one can only respond with force rather than dialogue. By voluntarily committing themselves to humanitarian norms, NSAGs demonstrate that they can also serve as governance actors who support the normative order of transnational relations and contribute to the solution of transnational problems (Schneckener 2009). The assumption that governance initiatives beyond a state-centered, hierarchical and repressive mode of governance are more effective in dealing with non-state armed actors is not far-fetched. For NGOs, questions of state sovereignty and non-interference do not arise to the same extent as for states. It is thus easier for them to accept NSAGs as negotiating partners and bind them to international humanitarian law by means of dialogue and persuasion.

2.2 Geneva Call's (success) story

Since its launch in 2000, Geneva Call has made great progress in its efforts to bind non-state armed groups to international humanitarian law, with regard to both, the acceptance of the mine ban as well as to its implementation (Santos 2003: 10ff.). In the last ten years Geneva Call has carried on a dialog with more than 60 NSAGs. Up until now 41 groups from Africa (from Burundi, Somalia, Sudan and West-Sahara), Asia (from Myanmar, India and the Philippines), Europe (from Turkey) and the Middle East (from Iran and Iraq) have signed the Deed of Commitment. Eight others have committed themselves in unilateral declarations to limiting their use of anti-personnel mines. The renunciation of mines by these NSAGs is especially relevant because many of these groups previously both deployed and also themselves manufactured AP mines (Geneva Call 2007: 2).

9 Geneva Call has a three-level verification system: In the event of allegations by third parties, the source of the accusation is identified and more details about the alleged mine use collected. If the accusation is detailed and based on facts, in the second step Geneva Call confronts the NSAG in question and asks it as well as independent third parties for a statement. If at the end of this process the accusation continues to be supported, a verification mission is carried out on the spot (Article 3 of the DoC). By contrast, the Ottawa Treaty does not once mention the word "verification," nor does it contain any article dealing specifically with mechanisms with whose help states can be made accountable. Moreover, Geneva Call has already carried out three verification missions in its history, whereas up until now not a single such mission has taken place within the framework of the Ottawa Treaty (Interview #1).

According to *Landmine Monitor* these groups have not only verbally renounced mines, but they have also actually made no use of them. Whereas in 2000 NSAGs were still using APMs in 18 countries, the number of countries declined to seven in 2009 (Landmine Monitor 2009: 8). Among those NSAGs which signed the Deed of Commitment, Geneva Call even speaks of "overall compliance" (Geneva Call 2007: 2). In fact, since 2000 there have only been two cases of accusations from the government that an NSAG has continued to use mines after signing the DoC: in the Philippines against the Moro Islamic Liberation Front (MILF) and in Somalia against the Puntland State of Somalia.[10] In both cases Geneva Call responded by conducting verification missions: in 2002 and 2009 to the Philippines and in 2007 to Somalia. In this way the accusations of a norm violation could be shown to be baseless (Interview #1).[11]

In accordance with Article 2 of the DoC, most NSAGs have also committed themselves to humanitarian mine action which include stockpile destruction, mine clearance, mine awareness and victim assistance, such as socio-economic and psychological rehabilitation of victims and their families. In addition, a positive multiplier effect of the acceptance of norms by NSAGs was observed. The best example of this is the signing of the DoC by 15 Somali armed groups which, at a conference on national reconciliation in 2002, agreed on the necessity of a ban on mines (Santos 2003: 9). A remarkable example of further dissemination of the norm by NSAGs is a letter with which a Sudanese NSAG, the SPLM/A, called on the Columbian National Liberation Army (ELN) to accept the ban on anti-personnel mines.[12] Furthermore, in June 2009 44 delegates from 29 NSAGS, all signatories to the Deed of Commitment, met to discuss expansion of their compliance with international norms related to protection of children and women in armed conflict. The initiative of Geneva Call thus demonstrates the great potential of NGOs to exert influence on non-state armed groups and integrate these into international humanitarian law. The case studied here is thus only one of many successful cases of acceptance of norms by NSAGS.

2.3 Possible reasons for the norm acceptance by NSAGs

Although non-state actors are attracting the attention of scholars more and more, comprehensive explanations of NSAG and their behavior are still missing. Primarily, ad-hoc assumptions are used for explaining the acceptance of norms by armed groups. In order to be able to explain the behavior of NSAGS, a short look into the theory will show whether potential causes of norm acceptance can be identified there.[13] The search for theoretically

10 In the case of the SPLM/A in the Sudan it is true that accusations by the government were reported, but Geneva Call decided at this time that these were unjustified and consequently carried out no verification mission (Interview #1).

11 In Somalia the accusations against the local NSAG could not be confirmed. In the case of the mission carried out in the Philippines in 2002, the investigation revealed that a norm violation by the MILF had occurred but that this was the result of lack of clarity concerning the extent of the ban on mines, which was cleared up in talks (Geneva Call 2007: 20). The repeated accusation in 2009 could not be unequivocally attributed to the MILF (Geneva Call 2007: 20).

12 See http://genevacall.org/resources/nsas-statements/f-nsas-statements/2001-2010/2004-01jun-splma.pdf.

13 Despite the growing importance of non-state armed groups theoretically grounded analyses of NSAGs as norm addressee are still missing (see Capie 2008). State-centered norm theories can however deliver initial insight into possible reasons why NSAGs are accepting norms. The transferability of norm theories

well-grounded explanatory factors also makes sense because these indicate possible starting points for the international community to work with NSAGs.

At first glance it seems most likely that NSAGs would make their ban of AP mines conditional upon their (non-existent) strategic value – especially if NSAGs are regarded as the bad guys, who are questioning the legitimacy of a state through the use of force. According to this approach, NSAGs would only do without anti-personnel mines if these had no or only limited military value for them, so that accepting the norm would be linked with only limited costs (Price 1998: 614).[14] This assumption will be examined in the following chapters. However, other possible causes for acceptance of the norm by NSAGs can also be identified.

It also seems likely that NSAGs would accept a norm if financial and/or material resources depended on it. If supporters have accepted the norm, a NSAG has to reckon with withdrawal of this support in case of norm violation (Bruderlein 2000: 12). Such financial and/or dependency can exist on the population of the territory they control, but also on foreign sponsors such as the diaspora or supporting neighboring states. Thus it can be assumed that a norm acceptance is more likely if an NSAG is material vulnerable from internal or external actors (cp. Risse et al. 2000).

However, the belief in the legitimacy of a norm can also play a decisive role in the acceptance of the norm (Finnemore/Sikkink 1998: 900). The underlying assumption is: If an NSAG has a certain self-image, including the values associated with it, a norm will be accepted if it serves to maintain this self-image. Following this line of reasoning, the actors are primarily intrinsically motivated. They behave without external incentives on the basis of their belief in a norm (Capie 2008: 88). The notion that non-state armed groups can behave on the basis of moral conviction seems to be far-fetched for many people at first. But why should personal beliefs play a role with states but not with NSAGs? The ontological differentiation between NSAGs and states exists primarily in theory. Whereas in many parts of the world recognized states are not in a position to make basic public goods such as security available to the population, in more and more regions NSAGs are assuming the functions of the state. Where an NSAG sees itself as a humanitarian actor which is fighting for the interests of the population, it is perfectly possible it can be convinced (for instance through new information) of the intrinsic quality of a norm, and as a result accepts the norm.

A well known model of norm diffusion, the spiral model developed by Risse et al., also draws attention to the fact that a norm will be accepted by a norm-violating actor when the actor is subjected to pressure by transnational (human rights) networks. Many authors doubt that the strategy of shaming has an effect on armed groups, paramilitaries or warlords (see Börzel/Risse 2009: 7; Jo 2009). However, denial of legitimacy, which in the case of states is evidenced through for instance being written off as "rogue states", also has certain costs for NSAGs such as loss of trust, reduced credibility and loss of reputation.

appears to be promising especially because it is often not possible to maintain a distinction between state and non-state actors in countries of the South (Capie 2008: 90).

14 This assumption is consistent with a strictly rational point of view according to which a norm is accepted when the cost-benefit calculation of an actor changes and the benefit of accepting the norm outweighs the cost.

This is especially the case when NSAGs give themselves a genuine chance even of taking over control of the state. This is what Börzel and Risse call the "shadow of future statehood" (Börzel/Risse 2009: 10). In such cases, through violations of international law NSAGs run the risk of jeopardizing their support in their own society and internationally. Non-state armed groups can thus strongly value their reputation (Bongard 2008). Looked at in this way, acceptance of norms would be all the more likely the greater the internal or international need for legitimation of an NSAG (compare Finnemore/Sikkink 1998: 895).

According to this, various potential explanations for acceptance of the norm by non-state armed groups can be derived from theories of norm diffusion. These assumptions can be summarized in different clusters (see the inset). The extent to which these theoretical assumptions can explain norm acceptance by non-state armed groups will be examined in the following chapter using the case of the Sudan People's Liberation Movement/Army.

I. Material vulnerability

- The lower the strategic value of the use of mines to the NSAG, the more likely norm acceptance becomes.
- The greater the financial dependency of an NSAG on internal and external actors, the more likely norm acceptance becomes.

II. Normative vulnerability

- The more an NSAG regards itself as a responsible actor, the more likely norm acceptance becomes.
- The greater the internal and international legitimation need of an NSAG, the more likely norm acceptance becomes.

III. External conditions

- Transnational pressure increases the likelihood of norm acceptance.[15]

15 An alternative sixth assumption which says that the psychological need of an NSAG to be part of a group of norm followers increases the probability of a norm acceptance (see Finnemore/Sikkink 1998: 895), 895), did not turn out to be tenable in the case of the SPLM/A (Herr 2010).

3. The SPLM/A and the civil war in Sudan

For a better understanding of the SPLM/A attention will first be turned to the movement itself and the civil war in Southern Sudan. The civil war in Sudan is one of the longest-running armed conflicts of the present. From independence in 1956 until the signing of the Comprehensive Peace Agreements (CPA) in June 2005 the Sudanese population has known only a single decade of peace. The first civil war, waged from 1955 to 1972 between southern rebels known as Anyanya I and government troops, came to a provisional end in February 1972 as a result of the Addis Ababa Treaty. However, in the ensuing period there was no success in eliminating the inequalities between the economically and socially better-developed north and the civil war-ravaged south.[16] After the influence of radical Islamic circles on the Sudanese government had once again increased at the end of the 1970s, the government ended the self-administration of the south, introduced Islamic law and partitioned the south into several provinces (Mükusch 2008: 49). The failure of the government to keep the promise of autonomy made in 1972 and the renewed government policy of Arabization and Islamization incited civil war once again. The military conflicts, which were reinforced by ethnic and military divisions within the south, spread throughout the country and persisted throughout the following twelve years. They only came to an end in 2005 after years of peace negotiations under the leadership of the Inter-Governmental Authority Development (IGAD) with the signing of a comprehensive peace treaty.

Like its predecessor organization Anyanya I, the Sudan People's Liberation Movement/Army (SPLM/A) fought from the outbreak of the second civil war against structural inequalities throughout Sudan. Just like the outbreak of the first civil war, the uprisings began at first with different armed factions which rejected the Addis Ababa Treaty. These demanded the conversion of Sudan into a secular, decentralized democracy in which Sudanese from the north and the south would have equal rights. The desire for self-determination thus stood at the center of the agenda, whether in the form of an autonomous, a federal or an independent Southern Sudan. In 1983 a former member of the army, John Garang, succeeded in uniting the factions in the struggle against the government in Khartoum – the SPML/A had been founded. Garang retained leadership as the sole chairperson until his death in July 2005.

At the end of the 1980s criticism of the hierarchical leadership style of Garang grew louder. Discussions of his personal qualities and differing visions of the future of the south

16 The war in Sudan is often presented as an ethnic-religious confrontation between the Arabic and Islamic dominated north on the one hand, and the extremely heterogeneous south, which is marked by Christianity and African animism. However, the causes of the conflict are much more complex and stretch back into the colonial past. The economic, political and administrative power had been concentrated in the north of the country since before colonial times, whereas the south, but also the western and eastern provinces of the country were increasingly marginalized. These social and economic inequalities between the regions count as one of the main causes of the conflict (Metelits 2004: 69). The lines of conflict thus run not only between north and south, but far more strongly between a small Arab elite in the north of the country and the other marginalized regions, including in addition to the south Darfur in the west and eastern regions of Sudan. For a more detailed discussion of the causes of the conflict see Hofheinz 2001.

led to the movement's splitting in 1991. Two leading figures in the organization, Riek Machar and Lam Akol, declared their independence from Garang. In March 1993, the renegade SPLM/A commanders formed the SPLM/A-United, which however, split again after a short time. Riek Machar then founded the South Sudan Independence Movement/Army (SSIM/A),[17] while Lam Akol continued to oppose the SPLM/A with local militias. The government capitalized cleverly on the weakness of the SPLM/A by supporting armed groups in Sudan which opposed the SPLM/A. In the following period, armed conflicts between the different groups in the south increased and battle lines became more and more confused (Chiari 2008: 55). As a result of these developments the SPLM/A suffered substantial losses. Government troops succeeded in turning the tables and snatching away important areas from the SPLM/A. The split in the SPLM/A was thus regarded by many as a serious setback (Rolandsen 2005: 34).

In the mid-1990s these developments caused political changes within the SPLM/A. After the defeats at the beginning of the 1990s demands for reform within the movement could no longer be ignored. As a reaction to the turbulences, in 1994 the leadership of the SPLM/A called the first National Convention, in which 517 delegates from all over Sudan participated, including representatives of the SPLM/A, but also members of civil society. They passed a number of resolutions which envisaged a radical restructuring of the movement, including sharing of power and the separation of military and civilian wings of the SPLM/A (Rolandsen 2005: 167).[18] The National Convention was celebrated as a symbol of reform and a new start. Despite all the criticism of the only fragmentary implementation of the resolutions the assembly had an important role. Sjöberg concluded: "The National Convention [...] marked the re-building of the SPLM/A and its political and military supremacy, which would in the end bring it as the only ANSA [armed non-state actor] signatory of the 2005 peace agreement" (2009: 38).

At the end of the 1990s, shortly before the signing of the Deed of Commitment, the position of the SPLM/A really did improve substantially. Thanks to fresh support from abroad and weakened opposition at home, the SPLM/A succeeded in re-arming again, opening up new fronts in the east and re-occupying lost areas. In addition, the fighting reached the North of Sudan by entering the region of the Blue Nile. "By the end of the 1990s the position of the SPLM/A had consolidated strategic-militarily and diplomatically" (Riehl 2001: 8). Because of the growing significance of oil, the Sudanese government could retain its military position for a time. After foreign firms were recruited to resume pumping oil in the mid-1990s, this became an important source of revenue for the government, which was used to increase military spending. However, after violence

17 The factions in Sudan frequently changed their composition and their names. At last, the Nasir Faction led by Machar was known as Sudan People's Defense Forces (SPDF). In total, in the south a large number of different armed groups, which were often equipped by the government in Khartoum to oppose the SPLM/A, existed (an overview of the various groups is to be found in Ronaldsen 2005: 64). Some authors estimate that the conflict among the various armed groups led to more victims among civilians than the conflict with the government (Sjöberg 2009: 11).

18 This functional division also found expression in a renaming of the movement. Until this point the fighters called themselves Sudan People's Liberation Army (SPLA); the name Sudan People's Liberation Movement/Army was not adopted until after the separation into a military and a civilian wing.

escalated in the oil regions too, the Sudanese President Al-Bashir also had an interest in settling the conflicts. At this point genuine efforts by the Sudanese government and the SPLM/A to end the decades-long civil war in the south could be recognized. As a consequence, in July 2002 a first negotiations protocol was signed, which was followed by seven further treaties in the following years (the last in January 2005). Taken together, these agreements form the Comprehensive Peace Agreement, which brought the long civil war to an end (Rolandsen 2005: 125).

4. A mined country: the landmine problem in Southern Sudan and the SPLM/A's mine policy

Sudan is recognized as one of the most severely mine-affected areas worldwide. A third of the country is contaminated with mines. Even today, however, the true extent of the problem is difficult to estimate because of the absence of reliable data and the size of the country. In 1997 number of mines laid was estimated by the United Nations Department of Humanitarian Affairs as being 500,000 to 2 million, most of them in the south. There, the most important transport corridors, broad areas of the hinterland and the regions around cities like Yei, Juba, Torit, Kapoeta and Kaya are still mined even today. Reliable figures on mine victims do also not exist, since because of the absence of infrastructure many victims do not make it to hospital in time, and die from their injuries.

During the civil war both government troops as well as the SPLM/A and rival NSAGs in the south made use of land mines. For a long time the conflict in Sudan's south was regarded as a characteristically guerrilla war in which the government used mines mainly to secure garrison towns and other military strongholds, while the SPLM/A runs hit and run operations (Matthes 2007: 221). In doing this, since 1984 the SPLM/A was already using not only anti-vehicle mines, but also anti-personnel mines prohibited by the Deed of Commitment and the Ottawa Treaty (Landmine Monitor 1999).

The SPLM/A's process of accepting a mine ban only gradually took effect starting in the mid-1990s. In 1996 an awareness of the negative effects of AP mines slowly increased within the SPLM/A (Interview #1). At a conference in Southern Sudan, in which important representatives of the SPLM/A, international and local NGOs as well as civil society groups under the leadership of the New Sudan Council of Churches (NSCC) participated, the first discussions of the use of anti-personnel mines and analysis of their strategic significance took place (Landmine Monitor 1999). The conference ended with the passage of a "Resolution on Problems Posed by Proliferation of Anti-Personnel Mines in Liberated Parts of New Sudan", in which the SPLM/A expressed its deep concern about the tragic consequences of the use of APMs and the mounting concern of the populace in the mined areas. In addition, they committed themselves in this resolution to unilateral demining effort in the areas under their control and entrusted the NGO Operation Save Innocent Lives (OSIL) with this task "to help put an end this scourge". According to Landmine Monitor the SPLM/A also declared itself ready to cease using anti-personnel mines "provided that there is a significant reciprocation on the side of GoS [Government

of Sudan]" (Landmine Monitor 1999). Even though this declaration was labeled a unilateral moratorium by the SPLM/A,[19] it is scarcely regarded as such among experts. For instance, a member of Geneva Call, Pascal Bongard, concluded: "[Now] they say it was a moratorium. […] It was more kind of a realisation of the effects of landmines. They saw that it was a weapon that has indiscriminate effects, that was causing a lot of harm on the land and on the people" and "I did not stress enough the fact that their 1996 resolution did not prohibit the use of AP mines but committed the SPLM/A to a unilateral demining effort in the areas under its control" (Interview #1). Despite this declaration the SPLM/A continued to use anti-personnel mines after 1996, among other places in Eastern Equatoria, an SPLM/A controlled region, which was not mined until 1999. According to reports, the mining of the region was to prevent the population returning to the city (Landmine Monitor 2000).

Nonetheless, an increasing discussion of anti-personnel mines in this period can be observed. Both the SPLM/A and the Sudanese government requested international assistance in the removal of mines. In 1997, with start-up assistance from UNICEF/OLS, Christian Aid, DanChurch Aid and the International Committee of the Red Cross (ICRC), OSIL began removing mines in SPLM/A controlled regions. In addition, in the south public awareness trainings on the risks of APMs was carried out with the assistance of various humanitarian organizations. Since 1998 OSIL has also been supported by the British NGO Mines Advisory Group (MAG) in the training and education of OSIL workers (Interview #1).

On March 24 – 25, 2001 representatives of the SPLM/A participated with other non-state actors in a groundbreaking conference on the use of mines which was organized by the Swiss Campaign to Ban Landmines in cooperation with a number of other national campaigns in Geneva. In manifold panels they discussed the use of APMs by NSAGs and the legal and normative framework of a possible integration of NSAGs into international humanitarian law. In addition, non-state armed groups also had their say, among them representatives of the SPLM/A. At the close of the conference two former SPLM/A commanders, Aleu Ayieny Aleu and Edward Lino, who represented the SPLM/A in Geneva, committed themselves verbally to the Deed of Commitment (Interview #1).

Aleu and Lino made a major contribution to raising awareness within the SPLM/A in dealing with anti-personnel mines (Interviews #1, #2). Aleu, who was also director of OSIL, emphasized in Geneva that one of the greatest challenges in his work was raising awareness among the SPLM/A rank and file members. According to him, the leadership elite has been aware of the negative consequences of mines since the end of the 1990s. Consequently, at the conference in Geneva the SPLM/A elite had not to be persuaded fundamentally. What was new for the SPLM/A was the mechanism of the Deed of Commitment, with the help of which they were able to convert their recognition of the negative effects of mines into a legal binding commitment which would attract international approval. The conference in Geneva also showed the SPLM/A that it is part

19 See for instance the statement of Aleu Ayieny Aleus to the Pioneer Conference in March 2000 (Geneva Call 2001: 74). The Landmine Monitor also stated in 1999: "The SPLA considered this initiative to be pro-ban" (Landmine Monitor 1999).

of a larger international movement that works for a world free of antipersonnel landmines (Geneva Call 2001: 89).

Aleu and Lino also remained in contact with Geneva Call after the March 2000 conference. Aleu for example met again with Geneva Call, the Coalition to Stop the Use of Child Soldiers and the Coalition against Torture before the signing of the DoC in July 2001. He used this opportunity to reinforce the interest of the SPLM/A in signing the DoC. Finally, in September a meeting with Aleu and Lino took place at which precise details of the signing were discussed. At this meeting the content of the DoC and the necessary follow-up measures in the event of a signing were reviewed. However, Bongard emphasized that the precise wording of the DoC was not a matter for discussion, but were accepted by the SPLM/A representatives without any objections. Finally, in October 2001 SPLM/A commander Nhial Dheng Nhial traveled to Geneva to sign the Deed of Commitment on behalf of the SPLM/A (Interview #1). How this norm acceptance can be explained is set out in the following chapter.

5. Reasons for the Ban of Landmines by the SPLM/A

5.1 Strategic value of anti-personnel mines

The first point to be investigated is the assumption that NSAGs only abstain from using anti-personnel mines when these have no or only limited military value for them, thus lowering the cost of refraining from their use. The strategic value of anti-personnel mines depends first and foremost on the military strategy of the NSAG, the current conflict situation, the danger posed by mines to their own fighters and the possibility of using other (military) alternatives. According to a study by the ICRC, anti-personnel mines play an important role in guerrilla-like actions, whereas in (more) symmetrical conflicts, in which the parties in conflict have access to other weapons, mines have less significance (ICRC 1997).

At the beginning of the war in 1983 the military strategy of the SPLM/A could correctly be described as that which followed conventional guerrilla tactics: SPLM/A fighters carried out localized hit-and-run operations and avoided direct confrontation with the opponent. Mines were used in such operations to fix government forces in the towns, to interdict their supply lines and to terrorize local populations in order to diminish their support for the opposite side (Interview #2). At the end of the 1990s, however, this tactic changed. Because of its improved financial situation the SPLM/A could begin to make use of armored and mechanized forces. In addition to small arms and light weapons, the SPLM/A soon had modest supplies of artillery, rocket launchers and armored vehicles (Chiari 2008: 52). At the end of the 1990s, military confrontations thus also involved symmetrical operations which took place on several fronts simultaneously. The government attempted to maintain garrison cities, but the SPLM/A succeeded more and more in achieving military successes. The battles reached their high point in 2001 in Bahr al-Ghazal (Matthes 2002: 326).

In addition, the SPLM/A was increasingly confronted with problems arising from the laying of mines in their territory. Possibilities for communication among separate units were limited and mined areas were not marked. Individual units thus had no information about mined areas and there was a danger that their own fighters would become mine victims (Geneva Call 2005a: 30). In the period before the signing of the DoC the Landmine Monitor reported a couple of times on mine victims among SPLM/A fighters (Landmine Monitor 1999; 2000; 2001). The negative effects of the use of mines were thus being felt not only by the civilian population. In addition to mine victims among their own soldiers, the SPLM/A also had to cope with interrupted access to infrastructure and restrictions in their freedom of movement. In the south of the country there were neither effective transportation facilities nor communication channels; the roads were mostly mined. As a consequence, the SPLM/A often had to deal with long detours in order to move around in the south (Lako 1994: 79). The laying of mines in and around agricultural crop-production and grazing areas disturbed the production of food markedly. In addition, mined roads, bridges, landing strips and rail lines brought traffic in entire regions to a halt, so that additional costs in the millions were caused in the delivery of humanitarian aid (Landmine Monitor 2001).

The realization that anti-personnel mines had only limited military use for the SPLM/A but had negative effects on its own fighters clearly seems to have played a role in the decision to sign the Deed of Commitment. However, it cannot be concluded that anti-personnel mines had no strategic value for them at all. Instead, it seems more likely that the human and socio-economic costs of the use of mines were greater than their value. Bongard observed:

> "They realized that many casualties were caused by their own mines. They also realized that this weapon was very indiscriminative, very difficult to know once it is laid who it will hit. There are not necessarily maps or good communications between units. So I think they realized that in terms of military utility this weapon was causing much more human and socio-economic costs and has long term consequences" (Interview #1).

However, the decision to accept the norm does not seem to be solely attributable to the changed cost-benefit ratio for anti-personnel mines. When the process of norm acceptance is examined closely, it becomes apparent that this argument was used most of all by two former SPLM/A commanders, Aleu und Lino, to convince their own followers of the value of renouncing anti-personnel mines. Statements by the two ex-commanders show that both were convinced that because of the indiscriminate nature of these weapons the use of anti-personnel mines is inhumane (see also Chapter 5.4).[20] However, the SPLM/A leadership emphasized again and again that they had difficulty in convincing people to accept the mine ban, especially at the beginning, because many commanders regarded mines as legitimate weapons in certain circumstances (for example, for self-defense) and justified the use of mines through its military necessity (Geneva Call 2007b: 20). To guarantee acceptance of the ban, in 2003 a workshop was carried out in the south of Sudan with the goal of increasing respect for the DoC by all SPLM/A commanders. The SPLM/A leadership thus had to convince their own followers. For this purpose, particular

20 Thus Lino for example emphasized: "The very people we wanted to liberate [...] became the innocent victims including our own mothers, fathers, brothers and sisters" (Lino 2004).

attention was drawn to the limited military value of AP mines. For instance in the framework of this workshop Aleu reprimanded the SPLM/A commanders and officers in the room: "I do not think any one of you here can tell me of a single objective denied to the government forces by landmines. Not one" (Geneva Call 2003: 4). Thus, the reduced strategic value of mines obviously played less of a role in the decision of the SPLM/A leadership to sign the DoC than in convincing their own followers also to implement the Deed of Commitment.

There are also other reasons why the questionable strategic value of APMs cannot account solely for signing the DoC. At the time of signing the document the SPLM/A was still involved in military actions against the government. Even though the SPLM/A had consolidated its military position, there continued to be an asymmetry between the parties to the conflict. In addition, events at the beginning of the 1990s had shown that external developments could substantially influence the course of the war. As a result, the SPLM/A could not be sure that the situation would not change again to its disadvantage. Furthermore, as a result of crude oil production in the south of the country the Sudanese government was able to increase its military expenditures (Rolandsen 2005: 125). Thus, the NSAG had to anticipate a renewed offensive by government troops, in which anti-personnel mines would definitely have been helpful in limiting the mobility of the Sudanese military (Interview #3). Nonetheless, the SPLM/A did not question the contents of the DoC, but sought to introduce even stricter implementation measures (Interview #1). A lack of usefulness of AP mines on its own is not a sufficient explanation for this proactive attitude to the signing of the DoC.

5.2 Dependence on financial/technical support

Below, the material vulnerability of the SPLM/A will be examined in order to determine the extent to which concern about falling financial and/or technical support from internal or external sources influenced the decision to sign the Deed of Commitment.

Although the south of Sudan is rich in natural resources, the SPLM/A was not able to exploit these. It was thus dependent on external support from the very beginning (Riehl 2001: 7). Whereas at the beginning of the 1980s the neighboring country Ethiopia gave substantial support,[21] after the fall of Mengistu the Ethiopian aid was cut off in 1991. After a period of financial drought, the SPLM/A was subsidized by Uganda and Kenya in the middle of the 1990s. Out of fear of the spread of Islamic fundamentalism in the region, both countries were in favor of the overthrow of the government in Khartoum (Rolandsen 2005: 38). The apparent religious dimension of the conflict also led Christian organizations in Rwanda and the U.S. to provide financial support for the SPLM/A. The

21 The President of Ethiopia, Mengistu Haile Mariam, supported the SPLM/A from its being founded in 1983. Refugee camps in the Ethiopian border region served as logistic and economic centers for the SPLM/A; they helped with recruiting and aid could be systematically diverted from them (Sjöberg 2009: 42).

U.S even provided so-called "non-lethal" military support to the Southern movement during that time.[22]

In addition to support from neighboring countries the misuse, redistribution, and taxation of international aid deliveries also constituted an important source of income for the SPLM/A. Roland stated: "Which was more important – the supplies rebel factions received from sympathetic countries or captured in battle, or the food and resources diverted from the relief operations or mobilised from the local population – is still difficult to establish" (2005: 48). Thus, it is true that the SPLM/A was materially dependent on internal and external supporters in the middle of the 1990s. However, this financial and technical dependency of the SPLM/A decreased during the conflict. The competition for resources among the various armed groups in the south came to an end in 1997 with the signing of an peace treaty between Riek Machar and the government in Khartoum. The SPLM/A had now established itself as the most important group in the south. In addition, the relationship of the SPLM/A to the U.S. and Europe improved substantially at the end of 1997, because it succeeded in using Al-Bashir's call for a jihad to depict the war as a religious conflict and thus to win the sympathy of the Western world. It can therefore be assumed that at this time the SPLM/A had no need to fear losing support. Instead, the SPLM/A was rebuilding its military and political supremacy and consolidated its position as the major NSAG in the South (Rolandsen 2005: 52). As the material vulnerability of the SPLM/A was decreasing at the end of the 1990s, it is unlikely that it had an influence on the SPLM/A's acceptance of the norm.

5.3 Belief in the legitimacy of the norm

The third thesis speculates that the SPLM/A accepted the norm because this is consistent with their own self-image as humanitarian actors. Behind it lies the assumption that NSAGs reject the use of mines when they see themselves as humanitarian actors who fight for the needs of their people. When they realize, that AP mines are indiscriminative weapons, that maim and kill also civilians, they can accept a mine ban out of moral conviction.

The first signs of an NSAG perceiving itself as a humanitarian actor can be found in the way it treats the civilian population on the ground. For the SPLM/A contradictory statements can be made. On the one hand, the movement acknowledged human rights and the Geneva Conventions at a very early stage. For instance, as early as 1983 the SPLM/A adopted a code of behavior that forbade certain forms of violence against civilians such as murder, rape, robbery and theft. The Ground Rules, the SPLM/A agreed upon within the framework of the Operation Lifeline Sudan[23], also contain both a

22 In 1996 by order of the Clinton government military equipment with a value of 20 million Dollars was imported into Southern Sudan via Eritrea and Uganda (Adar 1998; Sjöberg 2009: 42). The US government also supported the SPLM/A financially at the end of the 1990s by channeling money to the NSAG via humanitarian organizations (Riehl 2001: 10).

23 Operation Lifeline Sudan was initiated in 1989 as a consortium of 40 NGOs under the leadership of UNICEF. Its goals was to coordinate the various aid deliveries and to guarantee better protection of the civilian population. When, after the murder of three aid workers at the end of 1992; pressure on the parties

reference to the Geneva Conventions and its supplementary protocols as well as to the UN Declaration on the Rights of Children. In addition, the SPLM/A commits itself to respect fundamental human rights in the regions under its control (Bradbury et al. 2000). From the mid-1990s commitments to human rights are found more and more frequently in position papers of the SPLM/A. SPLM/A Commanders emphasize at different occasions that atrocities against civilians must be brought to an end (Rolandsen 2005: 114).

However, this commitment to humanitarian principles was only implemented in practice in a very arbitrary manner. From the beginning of the war the SPLM/A was accused of a large number of human rights violations (African Rights 1994: 82). Although in part an improvement in the protection of human rights was observed (see Rolandsen 2005; Barbelet 2008), rumors of the exploitation of civilians persisted (Riehl 2001: 7). As a result, it is difficult to establish whether the SPLM/A really took to heart the protection of civilians from a certain point in time or whether such rhetoric merely served as an instrument for garnering greater legitimacy. Barbelet therefore concludes: "The SPLM/A's position regarding humanitarianism and human rights norms seems therefore to be both one of pragmatism and one of genuine concern" (Barbelet 2008: 266).

In spite of these contradictory statements about the human rights tradition of the SPLM/A, a belief in the legitimacy of the norm clearly seems to have played a role in signing the DoC. The following indicators support this view. On the one hand, it is difficult to explain the proactive attitude of the SPLM/A in disseminate the norm without taking in account their belief in the legitimacy of the norm. The SPLM/A was the first signatory to the Deed of Commitment and was thus a pioneer. In addition, in the process of norm acceptance it supported stronger regulations in the implementation of the ban on mines and sought to convince other NSAGs of the negative consequences of the use of mines (Interview #1). Over and above this, in 1996 a year before passage of the Ottawa Treaty the SPLM/A had already published a unilateral declaration on the negative consequences of the deployment of mines (see Chapter 4). Furthermore, an analysis of public statements of the SPLM/A at the signing of the DoC implies that humanitarian issues played a role in their becoming signatories. For instance, Aleu emphasized in 2003: "The SPLM/A commitment to ban AP mines is not donor driven. Its only motivation is concern for the lives of the people that the SPLM/A wants to liberate and concern for the land" (Geneva Call 2003: 21) and Lino observes: "It is our conscience which dictates us, not international pressure" (Geneva Call 2003: 54). John Garang too emphasized that the SPLM/A renounced the use of anti-personnel mines because they were concerned about the suffering of the Sudanese population (Geneva Call 2003: 4). That from a certain time point the SPLM/A genuinely believed in the intrinsic quality of the norm is also suggested by a letter which Lino wrote in the name of the SPLM/A on the occasion of a mine workshop in Columbia. In this, the SPLM/A appeals to its "brothers" of the National Liberation Army (ELN) to do without APMs in their struggle. In the letter he states that mines do not kill politicians but civilians, and are the "ordinary person's nuclear weapons and thus are

to the conflict increased, they consented to agree upon basic principles for working with OLS. The ground rules are the first attempt by a humanitarian organization to guarantee the integrity of their aid and the protection of civilians during a conflict (Bradbury et al. 2000).

weapons of mass destruction". Their use is "a crime against humanity" according to Lino's straightforward words (Lino 2004).[24]

Thus, according to this, significant people within the movement clearly had genuine humanitarian concerns. This assumption is shared by experts (Interviews #1 and 2). In an interview, Bongard emphasized:

> "I think we cannot rule out the fact that there was a general humanitarian sense behind. [...] I am not naïve that it is only this factor [...] but I would be very reluctant to say it was just for financial reasons or image that they made this commitment. I would say it is more complex than [...] to reduce their motivation to just financial gains and image or legitimacy compared to no humanitarian sense – I would not go so far to say" (Interview #1).

According to this view, the SPLM/A leadership definitely saw itself as a humanitarian actor, which was fighting for the good of the Sudanese population. From a certain point in time, this self-image could no longer be reconciled with the use of anti-personnel mines, and thus brought at least parts of the SPLM/A into an identity crisis.[25] Consequently, the SPLM/A recognized that anti-personnel mines harm in the first instance the local population, and the use of this weapon thus contradicts the goal of the struggle – the liberation of Southern Sudan (Interview #4). In this, Aleu and Lino had a decisive function first and foremost within the NSAG. Vis-à-vis the rest of the movement these two acted as norm entrepreneurs and directed the attention of the SPLM/A leadership to the negative consequences of the deployment of mines.

It can thus be concluded that although humanitarian considerations were not the only reason for the renunciation of mines by the SPLM/A, they definitely played an important role in accepting the norm. They could explain above all – in contrast to the first two factors – why the SPLM/A, after deciding to sign the DoC, not only applied the norm unilaterally but also propagated the norm proactively.

5.4 Internal and external need for legitimation

The fifth assumption is that NSAGs will accept a norm because violating the norm would have certain social costs for them such as reduced credibility or loss of trust and reputation. This assumption will be investigated in the following section.

As has already been mentioned, NSAGs with a clear political agenda have a heightened need for legitimation, because to reach their goals they depend upon internal and international recognition. In its struggle the SPLM/A was pursuing clear political goals: The use of violence had the purpose of changing the status quo, that is to say the political and legal basis of the society (see Bruderlein 2000: 11). In addition, it was entirely aware of

24 Since this letter was neither published or distributed by the SPLM/A itself nor attracted attention in the media or among the international audience, it is very unlikely that it was intended for purely PR purposes. Linos appeal to the ELN can thus be seen as a strong sign that the SPLM/A really did believe in the intrinsic quality of the norm.

25 What event led to this identity crisis in the case of the SPLM/A cannot be determined exactly. Capie points out, however, that for instance the presentation of new information on long-term consequences of landmines can lead to actors changing their preferences (Capie 2004: 88).

the expectations placed on it. The SPLM/A representative Nhial Deng Nhial emphasized this at the signing of the DoC: "The SPLM/A is fully conscious of the fact that although it is a non-state actor, the world has come to expect from it humanitarian standards, approaching if not on a par with those expected of sovereign governments" (SPLM/A 2001).

In addition, the need of an NSAG for legitimacy depends on whether an NSAG is competing with the government and/or other non-state actors (Dudouet 2009: 16). This too was the case with the SPLM/A: On the one hand the aim was to alienate the population from the government. Rolandsen for instance points out that the SPLM/A placed the protection of civilians on their agenda to discourage them from fleeing into the garrison cities held by the government forces (2005: 114). On the other the SPLM/A was in competition with other non-state armed groups in the south for the support of the civil population. The large variety of ethnic groups in the south became a problem for the SPLM/A. Relationships with these in the regions occupied by the SPLM/A were complicated, especially after the split of the group in 1991. Riek Machar for example, the leader of the SPLM-United and a former SPLM/A commander, succeeded in instrumentalizing the supposed dominance of the Dinka within the SPLM/A, an ethnic group to which John Garang also belonged. In addition, the developments in 1991 sharpened the awareness within the SPLM/A leadership of how important support in their own ranks is. The split was regarded by many as a "serious setback" which permanently affected the later development of the movement (Rolandsen 2005: 34). "[After 1991] SPLM/A leadership soon realised that they had to prove themselves worthy to those commanders and ordinary soldiers who had remained loyal to them" (Metelits 2004: 74). Thus, the SPLM/A stood under both internal and also external pressure to prove that it was the legitimate representative of the population of Southern Sudan.

Competition with other NSAGs became less acute at the end of the 1990s,[26] but at the same time the SPLM/A was gaining in power. Soon it regarded itself as having a genuine chance of really achieving its goal of bringing down the government. Some authors emphasize that an NSAG is more dependent on internal and international recognition when it finds itself closer to a military victory (Börzel/Risse 2009: 10; Jo 2009: 12). As has already been pointed out, from the mid-1990s the SPLM/A was again achieving military successes. At least in terms of territorial gains it was slowly getting the upper hand in the course of the war. However, no end to the conflict was in sight. Through the income from crude oil production the government in Khartoum succeeded in keeping the war going. They oriented their strategy to the purchase of expensive and high quality military equipment in order to prepare a major offensive (Rolandsen 2005: 125). The peace negotiations between the two parties to the conflict, which had already been in progress since 1989, only achieved a breakthrough in 2002 with a ceasefire agreement in the Nuba Mountains – one year after the SPLM/A signed the Deed of Commitment.

26 In 1995 the SPLM/A succeeded in intensifying the cooperation, which had existed since the beginning of the 1990s, with the National Democratic Alliance (NDA), an alliance of opposition parties from the north. At the same time rival armed groups in the south lost credibility: Both Akol as well as Machar signed peace treaties with the regime in Khartoum and received positions in Al-Bashir's cabinet.

Nonetheless, the "shadow of future statehood" postulated by Börzel and Risse seemed to apply to the SPLM/A. Accordingly, it was of less significance for the Sudanese NSAG that an end to the conflict could be achieved in the foreseeable future than that they judged the assumption of power to be realizable at all – even if in the distant future. Rolandsen demonstrates clearly in his book "Guerrilla Political Changes in the Southern Sudan during the 1990s" that internal and international legitimacy had already played a role for the SPLM/A since 1991 (Rolandsen 2005). Barbelet too reported that the SPLM/A was concerned about its reputation and consequently sought to build up a positive image both outside as well as inside Sudan. "In actively showing that the group was taking care of its constituency, the SPLM/A could aspire to greater legitimacy and recognition in the eyes of the international community" (Barbelet 2008: 318).

For the SPLM/A, however, its legitimacy in the eyes of the international community through the signing of the DoC seemed to be of greater significance than its acceptance by the Sudanese population. This is emphasized in particular by the Sudan expert Moszinsky, who showed that the norm acceptance was intended to satisfy external supporters, whereas inside Sudan the signing of the DoC met with very limited interest (Interview #2). Rolandsen too argues that the new interest of the SPLM/A in the welfare of the local populace resulted in the first instance from the necessity of improving its own image especially among Sudanese exiles, foreign NGOs and Western governments, which called upon the SPLM/A to observe human rights (2005: 62, 115).

It can thus be concluded that the DoC was also a welcome instrument for the Sudanese NSAG to make its commitment known at the international level (Interview #2). The fact that the Sudanese government had not yet signed the Ottawa Treaty also played a role for the SPLM/A which was thus able to lay claim to being better, that is more responsible than its opponent (Interview #4). According to this, it was important for the SPLM/A to prove that it observed international norms and was capable of assuming responsibility for the Sudanese people as a state actor after the end of the war. Thus, Bongard observed:

> "Of course they were hoping [for] some political gains, because they could appear as a movement that is abiding by international law, that would enhance their reputation, as a movement that is sensitive to international human rights standard and so forth" (Interview #1).

It can thus be concluded that the wish for international recognition played an important role in the decision to sign the DoC.

5.5 Transnational pressure

A further postulate that is closely linked with an NSAG's need for legitimacy is that the norm acceptance by the SPLM/A is significantly affected by the intensity and consistency of transnational pressure. The success of public censure also depends upon the material and moral vulnerability of the actor (i.e., upon for instance its financial dependency or its need for legitimacy), but both international as well as internal pressure are decisive for the acceptance and application of a norm (Risse et al. 2002: 12). In explaining the norm

acceptance of the SPLM/A the time period before the signing of the DoC is of particular interest.

In the mid-1990s the interest of both locally active NGOs as well as the UN in norm violations by the SPLM/A was growing. In Sudan, in addition to international humanitarian aid organizations, so-called SINGOs (Sudanese Indigenous NGOs) were also active, and these had an independent political agenda. The large number of NGOs in Sudan led Riehl in 2001 to label the south of the country the first "NGO-istan" (Riehl 2001). The SPLM/A was trying to exercise strict control over supposedly independent sources of information (Grävingholt et al. 2007: 74). But, despite this, information about the use of mines by the SPLM/A became public. As early as 1995, a women's rights conference organized in Nairobi by the Kenyan Coalition to Ban Landmines at which Sudanese activists were present had been used as a platform to denounce the use of anti-personnel mines by the SPLM/A (Geneva Call 2004: 13). The Kenyan Coalition to Ban Landmines also played an important role in shaming the SPLM/A in the following period (Interview #1).

In addition, at the end of the 1990s two detailed reports were published at the same time which focused on the landmine problem in Southern Sudan and strongly criticized the use of mines by the SPLM/A (Landmine Monitor 1999). In August 1997 the Mine Clearance and Policy Unit of the UN Department of Humanitarian Affairs published an evaluation report on the landmine situation in Sudan, in which both the Sudanese government and the SPLM/A were identified as mine users. A year later, in August 1998 Human Rights Watch (HRW) published its report "Sudan: Global Trade, Local Conflict" in which the SPLM/A was directly called upon to respect the provisions of the Ottawa Convention and to desist from the use of anti-personnel mines (Human Rights Watch 1998: 5). In the summer of 1999 a second field mission was carried out by Human Rights Watch in Southern Sudan. Mines were also a subject of discussion in a meeting between the SPLM/A and the special representative of the UN at the end of the 1990s. Over and above this at the end of 2000, the IGAD Forum Task Force carried out an evaluation of the landmine situation in Sudan, in which attention was drawn to the continuing use of anti-personnel mines by the SPLM/A (Landmine Monitor 2001). However, the SPLM/A declared that it only used mines laid by the government and reused these in a different place. The norm violation by the SPLM/A however was subsequently taken up by internal and international NGOs as well as publicly condemned, and continued use of anti-personnel mines denounced.

In addition to external actors such as the Kenyan Coalition or the International Committee of the Red Cross (ICRC) internal civil society groups also influenced the norm acceptance of the SPLM/A substantially.

> "Especially women organizations and churches in Southern Sudan were very instrumental in putting pressure, in saying 'Why do you use this weapon, when it is affecting us more than the enemy?' And as the SPLM/A was depending quite a lot on the local population […] they were quite receptive or sensitive to this pressure from the constituencies or the social bases of the SPLM/A" (Interview #1).

Contrary to the assumption that the mobilization of internal opposition is strongly suppressed in conflict regions (Jo 2009: 14), it can be seen that in the case of Sudan organizations existed inside the country which criticized the SPLM/A. Thus, it can be concluded that national and transnational pressure played an important role in the decision of the SPLM/A to accept the norm. In Bongard's words: "This issue, the pressure from their own constituencies […] and pressure from external actors was very important [in their decision to sign the DoC]" (Interview #1).

5.6 Costs of an eventual assumption of power

In addition to the explanatory factors introduced earlier, through the analysis an additional reason for the acceptance of the norm could be identified. The decision of the SPLM/A to sign the Deed of Commitment was also substantially influenced by the fact that support for the demining of the area was expected. As has already been mentioned, the entire south of the country was contaminated with mines (Barbelet 2008: 338). The mine clearance of such a large territory – at this time the SPLM/A controlled a territory the size of France – demands both time and resources, and the use of inadequately trained personnel can cost human lives (ICRC 1997: 21). Prior to the signing of the DoC however, many humanitarian organizations refused to support the Sudanese NGO Operation Save Innocent Lives (OSIL) financially and technically because of concerns that the area would be remined. The official signing of the Deed of Commitment by the SPLM/A thus served for many organizations as a guarantee that demining of the region would be worthwhile. The signing of the DoC is thus by no means a classical package deal, because Geneva Call could not support the NSAG itself due to its lacking such resources. Nonetheless, the signing established contact with the relevant organizations and in this way made possible financial and technical support.

The promised support with the demining of the region cannot, however, serve as an independent explanatory factor for the norm acceptance, but is itself in need of explanation: The plan of the SPLM/A to demine the territory under its control is a part of the norm acceptance and not a cause of it. Instead, this factor too can be traced back to the political motives of the NSAG and their "shadow of future statehood". The goal of the SPLM/A's struggle was not destruction of the regions but taking over the power in Southern Sudan. While signing the DoC the SPLM/A emphasized: "Our decision was triggered by the simple fact that we are fighting for a peaceful homeland and not a turbulent mine-land" (SPLM/A 2001).

Consequently, at the end of the 1990s the SPLM/A leadership discovered that APMs will still constitute a burden for the population long after the end of the war and will make the development and reconstruction of the country more difficult (Lino 2004).[27] According to Bongard these considerations played an important role in the signing of the DoC:

27 Landmines not only damage access to infrastructure and thus delay reconstruction substantially. Mined regions also inhibit in the long term for instance the return of war refugees, and thus additionally damage the social and economic structures of the regions (ICRC 2007).

> "They were not in a mood of war. It was more a mood of 'okay, what next?' and next could come very quickly […] It was time for them to think about the time after the war, about the burden this weapon was causing and how it will still be affecting the people, even after war. I think there were these really important considerations" (Interview #1).

The "shadow of future statehood" postulated by Börzel and Risse thus influences the behavior of an NSAG not only because it needs international and internal legitimacy. It also influences the decision because perception of its own identity as a future state actor gives the NSAG a keener eye for material costs that the assumption of power will entail. The capacity of an NSAG is often too limited to be able to bear these costs alone. At the same time, after the end of the war an NSAG often has to prove that it is better able to govern the population in the controlled regions than the defeated government. The analysis showed that such considerations played an important role for the SPLM/A. For instance, Nhial emphasized that the expectations of the international community after the end of the war constitute a "daunting challenge and a tremendous burden" for an NSAG which it cannot meet without stronger support from international organizations (SPLM/A 2001). The SPLM/A thus realized that there is no sense in gaining control of a mined territory, when this, after the end of the war, generates more costs than benefits (see Geneva Call 2006: 12). The prospect of an end to the war and the takeover of power in the state in question also affect the long-term cost-benefit analysis of the NSAG and can thus contribute to norm acceptance.

6. Lessons learnt

6.1 Reasons for the norm acceptance in comparison

As shown above, no single factor can explain the norm acceptance by an NSAG alone. Instead, the signing of the declaration of renunciation can be attributed to a combination of factors, each of which has a certain explanatory power.

Contrary to initial expectations, the material vulnerability of the SPLM/A, i.e., its financial dependence on external support, played no role in the decision to sign the Deed of Commitment. Instead, the analysis showed that the strategic value of mines actually fell at the end of the 1990s. A lower strategic value of AP mines for the SPLM/A was incorporated into the decision to sign the DoC. This founding is consistent with the rational argument that norm acceptance is probable when its benefits exceed its costs. The reduced use of AP mines can however only explain the SPLM/A's renunciation of anti-personnel mines, but not its proactive behavior.

The speculation that pressure from both the international community and also the Sudanese population contributed to norm acceptance was confirmed. Not only criticized its own supporters any norm violations, but also the local population on the ground, which has to bear the consequences of the armed struggle, the armed opponent, international and national humanitarian organizations, and third states which observe the progress of the war. The deployment of AP mines by the SPLM/A was openly discussed

quite early, and condemned. These strategies of shaming stood in a direct relationship with the signing of the DoC.

As implied, there are different reasons why transnational pressure influences norm acceptance by an NSAG. On the one hand, it is possible that a censured NSAG suffers material losses from a loss of reputation. On the other hand, a sinking reputation can also incur social costs such as reduced bargaining power or distrust. Which reading provides the better explanation varies from case to case.

In the case of the SPLM/A, the NSAG was vulnerable to transnational pressure mainly due to the fact that the so-called "shadow of future statehood" set in. The SPLM/A began to speculate about taking over power and was thus dependent upon the recognition of the international community and the internal population. The SPLM/A's need for internal and international legitimacy contributed substantially to the decision to sign the DoC. Since it was pursuing political goals from the very beginning and was fighting for the self-determination of the Sudanese population it was dependent on good reputation and credibility. "The WAR could be fought with Kalashnikovs, but a future peace had to be won in a different manner" (Rolandsen 2005: 129, emphasize in original).[28]

Beyond that, an additional explanatory point was identified above, which is closely linked to the ones described here. The analysis showed that the prospects of future statehood have not only an influence on the need for legitimacy of an NSAG. It has also the consequence that a potential assumption of power brings costs with it that cannot be borne by the NSAG alone. After assuming power, NSAGs often depend on the support of external actors. In the case studied here, the SPLM/A anticipated gaining support with the demining of the areas it controlled as a result of signing the DoC.

However, the self-image of the NSAG also played a role in the norm acceptance. As shown above the SPLM/A also accepted the norm because it saw itself as a humanitarian actor which was fighting for the interests of the Sudanese population. It could not be definitively determined whether the SPLM/A was completely convinced of the intrinsic quality of the norm or whether only the two former SPLM/A commanders, Aleu and Lino, believed in the legitimacy of the norm. However it could be established that humanitarian considerations played in particular a role in explaining the pro-active engagement of the SPLM/A. Thus, NSAGs can clearly behave on the basis of humanitarian concerns. This assumption is also shared by Carstairs, who emphasizes:

> "Some armed non state actors have perhaps by now learned that the widespread use of landmines, in particular those that are particularly indiscriminate and uncontrollable […] runs counter to their stated purpose, for example liberation." (Interview #4)

The deployment of anti-personnel mines can thus contradict the goals being pursued by an NSAG ("liberation") and thrust it into an identity crisis.

28 The assumption that NSAGs which are concerned about their image are more willing to maintain humanitarian standards is also confirmed by various NGOs (see Petrasek 1999: 16; Geneva Call 2007a: 19; ICRC 2007: 64).

6.2 Practical implications

The empirical evidence shows that this finding can help explain the behavior of non-state armed groups in other cases too. The militant wing of the African National Congress, for instance, had already committed itself to a ban on anti-personnel mines in 1980, long before the Ottawa Treaty declared the deployment of this weapon illegal – out of the conviction that above all civilians are the victims of their own mines, and these civilians have to be protected (Interview #1). The assumption that non-state armed groups, in contrast with states, have no interest in the security of civilians is thus incorrect. NSAGs cannot always be regarded as the "bad guys" of world politics. Instead, the arguments presented above allow some generalized findings which can facilitate understanding of non-state armed groups in the future. However, the analysis also showed that the decision against anti-personnel mines is not always inevitably a decision against the self-interest of an NSAG and in favor of humanity, as the quote from Jef Van Gerwen in the very beginning postulated. Instead, acceptance of a norm can be attributed both to rational as well as normative considerations.

Interpretation of the results stated above suggests the view that the motives that underlie an NSAG's struggle are decisive for its acceptance of norms. If an NSAG is fighting for the political self-determination of a population group, protection of the civilian population in the struggle is more probable. The goals of an NSAG influence both whether the NSAG is sensitive to transnational pressure, i.e., whether social incentives or sanctions are effective, as well as whether it can be convinced of the legitimacy of the norm. In analyzing an NSAG it is thus important to clarify the intentions of the NSAG (see Barbelet 2008: 307).

Consequently, norm acceptance is more probable when an NSAG is pursuing political goals. However, individual explanatory factors could also be applied to armed groups with a different motivation. To be sure, it seems probable that politically motivated actors have a greater interest in their own reputation than actors who are pursuing economic goals. However, this does not necessarily mean that the latter group would have no interest in their reputation. In April 2010 even Somali pirates reported that they were concerned about their good name and that they were therefore preparing an image campaign (Die Welt 2010).[29] In addition, an idealized distinction between economic and politically motivated actors cannot be maintained in practice: NSAGs often have multiple identities, which can also change with the time. It is thus likely that a large number of NSAGs value their reputation and are therefore particularly vulnerable to shaming strategies.

The finding that transnational pressure from the international community influences the norm acceptance of non-state armed groups yields further important guidelines for working with NSAGs. External actors can achieve success in influencing NSAGs by placing the norm violation of an NSAG on the international agenda, and in this way exerting pressure on the NSAG in question. Inducing NSAGs to accept a norm

29 However, the question if these assumptions can also be applied to economically motivated actors requires further research.

by influencing their cost-benefit calculations also seems promising. It is true that material vulnerability played no role in the norm acceptance in the case of the SPLM/A. However, directing attention beyond the SPLM/A shows that the (financial) support of internal and/or international partners can play a major role in both a positive as well as a negative sense.[30] In such cases it can help to change the interests of an NSAG in such a way that the costs of using mines exceed their benefit. Both governments and international organizations and NGOs can exert significant influence on the cost and benefit for an NSAG by, for instance, imposing financial sanctions, or damaging a group's reputation permanently (see Bruderlein 2000: 12). Consequently, there are various ways for the international community to exert influence on NSAGs.

7. Conclusion: NSAGs between Inclusion and Demonization

Civil society initiatives working towards acceptance and observation of international norms specifically by NSAGs were the focus of this report. As an example, the successful engagement of the NGO Geneva Call, which is taking on a pioneering role in strengthening the humanitarian responsibility of non-state armed groups was investigated. The starting point for the analysis was the observation that NSAGs in internal wars constitute a direct threat to human safety, operate as rule-breakers, and in this way impede peace- and state-building processes. The engagement of the Geneva NGO shows, however, that this peace-threatening potential can clearly be inhibited. "Consequently, it is important to be well aware of the negative roles of NSAGs […] without ignoring their potential for humanitarian actions" (Geneva Call 2007a: 38).

Recommendations for practice can be developed from knowledge of the conditions under which integration of these actors proceeds successfully. Thus, the goal was to investigate why NSAGs voluntarily commit themselves to humanitarian norms, in the present case the ban on AP mines. The analysis showed that a number of factors played a role in the norm acceptance. Thus external actors have various possibilities for exerting influence. As was shown in the last chapters, it seems very promising to change the cost-benefit calculation of the norm-violating NSAG in such a way that the costs of the norm violation exceed its benefit. This can be done by naming and shaming an NSAG and making it fear for its reputation; but it may also be reasonable to threaten an NSAG with withdrawal of (financial) support in the event of a further norm violation.[31] Furthermore, the offer to support an NSAG in clearing mines in the area they control can decisively influence its renunciation of AP mines. The example of the SPLM/A also shows that an NSAG can also be convinced of the correctness of a norm through dialog.

30 For instance, the Sri-Lankan Liberation Tigers of Tamil Eelam (LTTE) have refused to date to sign the Deed of Commitment, despite the increased engagement of Geneva Call. This failure is attributable, among other things, to the fact that the LTTE has sympathizers in the Tamil communities in the north and the east of the country and has recourse to strong support in the Tamil diaspora (see Tiemann 2003). As long as these people accept the deployment of mines by the LTTE the LTTE has only limited need for legitimation and because of the financial support of the Tamils living overseas is invulnerable.

31 Although this factor played no role with the SPLM/A, other studies have nonetheless drawn attention to the significance of this factor (see especially Bruderlein 2000).

These starting points are not just interesting for the banning of anti-personnel mines alone. In many regions of the world today, NSAGs constitute a direct threat to human safety. In 2009, according to the Heidelberg Institute for International Conflict Research (HIIK), internal conflicts in which at least one non-state armed group was involved constituted the great majority of violent conflicts.[32] In such conflicts NSAGs can impede processes of peace- and state-building, and thus function as rule-breakers (Schneckener 2009: 8). The points just made show, however, that the peace-threatening potential of non-state armed groups can be contained in a way that is both effective and also satisfies the need for legitimacy. The work of the NGO Geneva Call is a good example of how NSAGs can be bound by humanitarian norms and better protection of civilians achieved – even in areas with fragile statehood. Governments, international organizations and NGOs should thus not squander the opportunity of integrating NSAGs into international law by demonizing and criminalizing them indiscriminately. Instead, it seems promising to keep communications channels open, in order to convince NSAGs of the necessity of maintaining civil rights standards. Neither the exclusion of these actors nor their demonization can bring an end to the suffering of the civilian population – on the contrary. The practice of some states of drawing up official "terror lists" on which certain NSAGs are listed as terrorist groups is thus counterproductive.[33] The isolation of such groups weakens moderate influences within an NSAG and gives hardliners a boost. This can bring NSAGs to deny humanitarian actors access to the controlled territories and lead them to enter into a spiral of violence (Florquin/Decrey Warner 2008: 20).

The above mentioned view is not only shared by the International Committee of the Red Cross (ICRC 2008). The current United Nations Secretary-General, Ban Ki-Moon, stated on the occasion of the sixtieth anniversary of the Geneva Conventions: "We must [...] focus more attention on compliance with international humanitarian law by non-state armed groups. Unpalatable as it may be for some States, engagement with such groups is critical" (UN 2009). Former UN Secretary-General, Kofi Annan, emphasized that the promotion of international humanitarian law and human rights norms require dialogue with NSAGs, regardless of whether they are well organized groups with political goals or plundering warlords. He highlights: "The designation of certain non-State armed groups as terrorist organizations has had an adverse impact on opportunities for humanitarian negotiations" (UN 2004: 13). And Elisabeth Decrey Warner, president of Geneva Call, emphasizes that it is the responsibility of the international community to seek dialogue with armed groups, if such can save innocent lives and open up the path to peace negotiations (Decery Warner 2008: 1).

The work of Geneva Call also shows that negotiations with non-state armed groups do not necessarily have an effect on the (legal) status of an NSAG if the negotiations are carried out under guidelines of neutrality and impartiality. A possibility thus offers itself

32 As in previous years too, with 273 internal and 92 international conflicts, more than three quarters of the conflicts observed took place within a state territory (HIIK 2009: 2).

33 Thus, for example the branding of the Columbian FARC as a terror group resulted in strict restrictions on the work of humanitarian organizations in the conflict regions, and through this contributed to a worsening situation for the civilians locally (UN 2004: 13; see also Florquin/Decrey Warner 2008: 20).

for states of engaging NGOs to promote inclusion of non-state armed groups in a political order. In this way, they avoid giving recognition to NSAGs through their own engagement. The international community should, however, agree upon a coherent approach in working with NSAGs, to prevent manipulation of individual initiatives by them. In this context, it should be born in mind that in working with NSAGs not only active interaction can have an influence. Passive behavior, such as non-recognition of an NSAG by external actors, can also call forth certain reactions by them (see Grävingholt et al. 2007: 34).

As it seems, there will be no patent recipe for working with NSAGs. The remarks presented above however show that for an effective integration of non-state actors into normative structures it is helpful to leave conventional policy paths. It seems more promising to seek new forms of governance also, or especially, in dealing with NSAGs. This is no easy task, to be sure. But in view of the suffering of thousands and thousands of civilians who are exposed to the violence of NSAGs every day, any approach with the goal of binding non-state armed groups to humanitarian norms deserves stronger attention. The engagement of Geneva Call is a solid proof of that.

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Appendix

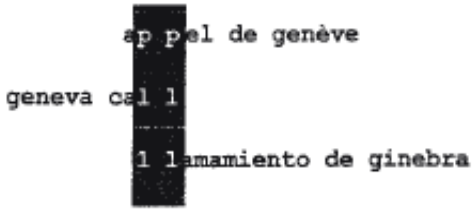
Overview of interviews completed

Interview #1: Expert interview with Pascal Bongard, Director of the Africa Department of Geneva Call, conducted in Geneva on December 1, 2009.

Interview #2: Questionnaire completed by Peter Moszinsky, freelance journalist in South Sudan since 1990, December 17, 2009.

Interview #3: Questionnaire completed by Melha Rout Biel, Sudan expert at the Institute of Political Science of Jena's Friedrich-Schiller University, January 9, 2010.

Interview #4: Questionnaire completed by Tim Carstairs, former employee of the Mine Action Group London, January 17, 2010.



DEED OF COMMITMENT UNDER GENEVA CALL FOR ADHERENCE TO A TOTAL BAN ON ANTI-PERSONNEL MINES AND FOR COOPERATION IN MINE ACTION

WE, the Sudan People's Liberation Movement and Sudan People's Liberation Army (SPLM/A), through our duly authorized representative,

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 post-conflict 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;

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;

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

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:

1. 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.

2. 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 organisations.

3. 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 organisations associated for this purpose with Geneva Call. Such monitoring and verification include visits and inspections in all areas where anti-personnel 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.

4. 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.

5. 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.

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.

7. We understand that Geneva Call may publicize our compliance or non-compliance with this Deed of Commitment.

8. 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.

9. This Deed of Commitment complements or supercedes, as the case may be, any existing unilateral declaration of ours on anti-personnel mines.

10. 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.

Done this 4th of October 2001 in Geneva, Switzerland.

For THE SUDAN PEOPLE'S LIBERATION MOVEMENT AND SUDAN PEOPLE'S LIBERATION ARMY (SPLM/A):

NHIAL DENG NHIAL
Chairman of SPLM Commission for External Relations, Information & Humanitarian Affairs

For GENEVA CALL:

ELISABETH REUSSE-DECREY
President

LARE OKUNGU
Regional Director for Africa

For THE GOVERNMENT OF THE REPUBLIC AND CANTON OF GENEVA:

ROBERT HENSLER
Chancelier d'Etat

Robert HENSLER
Chancelier d'Etat