

**REPORT OF THE GENEVA CALL MISSION TO
THE MORO ISLAMIC LIBERATION FRONT (MILF)
IN CENTRAL MINDANAO, PHILIPPINES**

(Geneva and Manila, 30 April 2002)

TABLE OF CONTENTS

<u>Introduction/Executive Summary.....</u>	<u>1</u>
<u>Background & Objectives.....</u>	<u>2</u>
<u>One-Year Preparation</u>	<u>3</u>
<u>Shape of the Visit</u>	<u>6</u>
<u>AFP Reports & Observations on Landmine Use by the MILF</u>	<u>8</u>
<u>Landmine Incidents & Recoveries in MILF Areas in 2001.....</u>	<u>10</u>
<u>MILF Responses to Alleged Violations</u>	<u>12</u>
<u>Mission's Resolution of Some Issues</u>	<u>14</u>
<u>MILF's New Deed of Commitment & its Significance</u>	<u>18</u>
<u>Next Steps with the MILF & also the GRP</u>	<u>20</u>
<u>Summing-Up the Gains, Shortcomings, Lessons & Prescriptions</u>	<u>23</u>
<u>Acknowledgments</u>	<u>27</u>
APPENDICES (including the Technical Report, Photographs & Deeds of Commitment)	

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INTRODUCTION/EXECUTIVE SUMMARY

Geneva Call, a new politically impartial international humanitarian non-governmental organization, sent a small international mission which visited and met with the rebel Moro Islamic Liberation Front (MILF) in Central Mindanao and in Manila, Philippines on 7 & 8 April 2002, thereby successfully piloting a new international mechanism for adherence and accountability of armed/rebel groups (also termed “non-state actors”) to humanitarian norms, starting with the total ban on anti-personnel landmines.

The mission has been able to secure a **clear and definitive commitment from the MILF at a very high level to a total and unconditional ban on anti-personnel mines**, understood to be victim-activated. This was highlighted by the **signing of the new “Deed of Commitment under Geneva Call for Adherence to a Total Ban on Anti-Personnel Mines and for Cooperation in Mine Action” by the MILF’s Al Haj Murad (MILF Vice-Chairman for Military Affairs, BIAF Chief of Staff, & MILF Peace Panel Chairman) in his field camp somewhere in Maguindanao on 7 April 2002.** The new Deed of Commitment itself is a **significant improvement over the old Deed of Commitment** signed by MILF representative Atty. Lanang S. Ali on 27 March 2000 in Geneva, and in some aspects even over the 1997 Ottawa Treaty.

It was the old Deed which was the basis of the mission to visit and meet with the MILF to thresh out its alleged violations of its earlier commitment. The process of dialogue contained **some elements of verification as well as clarification**, especially on the MILF’s admitted use of “string-pulled” improvised landmines and on the correct concept of “command detonation.” Unfortunately, because of the adjustments in the shape of the visit which precluded ground verification and field inspection, specific reported landmining incidents and landmines recovered being attributed by the Armed Forces of the Philippines (AFP) to the MILF **could not be independently verified as well as further investigated to deepen and complete the data with the participation of technical experts** like the foreigner members of the mission. **Whether right or wrong, these reports could really be ascertained only through site visit, underscoring this as unfinished business.**

In discussing the next steps to implement its new commitment, the mission was able to get a **fair idea of the extent of technical assistance needed** by the MILF for its own implementation measures. **Next steps were agreed upon in four areas:** implementing guidelines, verification mechanism, mine clearance, and various trainings. Some of these measures would tie in with mechanisms for the peace process and the ceasefire implementation involving the Philippine government and the MILF.

The mission hopes that it was able to make **some contribution to the said peace process not only in terms of what the said next steps may achieve in helping the process move along at a time of some impasse but also in terms of showing some basis to have trust and confidence in the MILF.** By cooperatively receiving and making responses to the mission regarding alleged violations, it has shown a measure of

accountability for humanitarian norms. It has thus provided an example for other rebel groups.

Beyond the MILF and Central Mindanao, the international significance of the mission lies in at least two things. The mission **successfully demonstrated, for the first time at an international level, that a new international mechanism for humanitarian adherence and accountability of armed/rebel groups is possible.** The mission **also successfully demonstrated that there is another way to deal with armed/rebel groups, even those tagged as “terrorist,” other than the coercive ways of military action and criminal prosecution.**

This report tells the story of the mission from its background, conceptualization, one-year preparation, last-minute adjustments, actual conduct, substantive discussions, findings, results up to its self-evaluation and recommendations.

BACKGROUND & OBJECTIVES

This mission was first conceived around June 2000 during the height of the “**all-out war**” launched by the Armed Forces of the Philippines (AFP) to take all the fixed camps of the MILF in Central Mindanao in the summer (April-July) of 2000. On 30 June 2000, the non-governmental Philippine Campaign to Ban Landmines (PCBL), an affiliate of Geneva Call, issued a preliminary report and statement on the **upsurge of landmine incidents in the Mindanao conflict**, mainly reported use of landmines by the MILF in defense of their major camps against advancing ground forces of the AFP.

Earlier, on 27 March 2000, the MILF, through its representative and legal counsel Atty. Lanang S. Ali, had signed and submitted a “**Deed of Commitment** under Geneva Call for Adherence to a Total Ban on Anti-Personnel Mines and for Cooperation in Mine Action” before the President of the Government of the Republic and Canton of Geneva. This Deed also provided for, among others, an **accountability mechanism** whereby the MILF committed itself “to allow and cooperate in the monitoring and verification by Geneva Call and other independent international organizations and non-government organizations of our commitment to a total ban on anti-personnel mines... to include periodic visits and inspections in the theater of armed conflict... the obligation to provide the necessary information in the spirit of transparency and accountability.” (paragraph 3)

These developments laid the foundation for testing this humanitarian accountability mechanism for armed/rebel groups for the first time at an international level. On 18-21 August 2000, a **preliminary exploratory visit** was made by the Geneva Call Director for Asia (who is based in Manila) to Cotabato City in Central Mindanao where he met with MILF representatives in the peace negotiations, namely Prof. Moner Bajunaid and Atty. Ali, who said the MILF was amenable to a visit pursuant to its “Deed of Commitment.” Shortly after, on 9 September 2000, a **concept paper** for a Geneva Call visit to the MILF was drafted. After internal discussion and comments, this was finalized on 7 November 2001.

As conceptualized and refined, the **over-all objective** of the visit was to “Reaffirm MILF commitment in principle, secure MILF commitment success in practice on the ground.” Among the more **specific elements** under this were to:

- secure a clear and definitive commitment from the MILF to a total *and unconditional* ban on anti-personnel mines, through a dialogue to thresh out issues regarding this;
- verify MILF compliance with the “Deed of Commitment,” if possible by field inspection, thereby effectuating the accountability mechanism under the Deed;
- assess the extent of technical assistance needed by the MILF to implement its commitments, including both internal (e.g. orders & training) and external (e.g. mine clearance & awareness) measures; and
- work out arrangements for subsequent monitoring and verification.

Though already conceptualized, arranging the visit was, however, put on hold due to Philippine political instability in the last quarter of 2000 arising from the impeachment proceedings against President Estrada. It was only after the assumption of President Arroyo in January 2001, with her “all-out peace” policy, that the visit became feasible. Thus, on 19 February 2001, the **first Geneva Call letters formally proposing the visit** were sent to Al Haj Murad, MILF Vice-Chairman for Military Affairs and Chief of Staff, Bangsamoro Islamic Armed Forces (BIAF), and to Sec. Eduardo R. Ermita, Acting Defense Secretary and Presidential Adviser on the Peace Process (PAPP), Government of the Republic of the Philippines (GRP). From the very start, coordination was made with the Department of National Defense (DND) not only for approval and facilitation of the visit, more precisely its schedule and security arrangements, but also for transparency purposes.

ONE-YEAR PREPARATION

At first, response or action by those concerned with the proposed Geneva Call visit to the MILF was relatively prompt. The **first and only business meeting between the Geneva Call Director for Asia and the DND led by Assistant Secretary Ruben F. Ciron** (by authority of the Secretary Angelo T. Reyes) was held on 2 April 2001 mainly as a briefing on Geneva Call and its proposed visit. About a year later, on 3-4 April 2002, the mission started with the arrival in Manila of three of its members from abroad to join the three others based in Manila.

During that one-year period, **DND Asec. Ciron made three official communications to the Geneva Call Director for Asia** on 10 April 2001, 16 October 2001 and 1 April 2002. These invariably stated that the visit is “most welcome,” that “your noble intention will contribute on our effort to have a lasting peace in the area,” and that “This Department appreciates the concern of the Geneva Call in its efforts to engage armed/rebel groups to adhere to a total ban on anti-personnel mines...” But these also invariably stated that the visit was “deemed not advisable at this time” because of “security considerations.” He also suggested in his 16 October 2001 letter that “The

mission's visit be scheduled when the mechanism on the implementation of a cessation of hostilities are already in place." As a result, the proposed visit was postponed a number of times during this one-year period.

The **first official response from the MILF** came on 11 April 2001. Atty. Ali stated that "Our initial consultations on this matter point toward MILF approval of the proposed visit but this will have to be formalized or made official at the level of at least the MILF Vice-Chairman for Military Affairs and the BIAF Chief of Staff Al Haj Murad who has, however, been occupied lately with other matters related to the resumption of the peace talks." He "assure(d) Geneva Call that the MILF would do everything within its power to ensure the safety and security of the visiting team while under our care... For this purpose, we may consider to undertake close coordination with the AFP under existing agreements on the matter..." He further said "We are aware of the importance of this visit as a pioneering and possibly breakthrough effort in developing a new humanitarian mechanism appropriate for 'non-state actors' who are excluded from state-based mechanisms. We are, therefore, inclined to make our own modest contribution to this great humanitarian effort towards peace in this part of the world."

During the one-year period, the Geneva Call Director for Asia made regular written and verbal communications with DND's Asec. Ciron and MILF's Atty. Ali, and occasionally with other Philippine officials like the PAPP and **former President Fidel V. Ramos**. The latter, who was instrumental in the Philippine policy supportive of a total ban on anti-personnel mines, "strongly endorse(d) the approval and facilitation of this proposed visit at a mutually agreed time" in a note to Secs. Ermita and Reyes on 19 June 2001. By 28 June 2001, there was already a **draft schedule, itinerary and program for the visit**. Of course, one must factor in the events of 11 September 2001 and the ensuing U.S.-led, Philippine-supported "global war against terrorism."

It was in the new year and first quarter of 2002 when it seemed that conditions were ripe and favorable for the visit to finally take place. The **ceasefire implementation mechanisms were being put in place**. The Joint GRP-MILF Coordinating Committee on the Cessation of Hostilities (CCCH) reconvened on 12 January 2002. At its 2nd meeting on 11 February 2001, it agreed on the immediate establishment of Local Monitoring Teams (LMTs) in 11 conflict-affected provinces. At its 3rd Joint meeting on 13 March 2002, it defused a recent outbreak of hostilities in four municipalities of Maguindanao province, agreed on a coordination system, and requested the GRP and MILF peace panels to urge the Organization of the Islamic Conference (OIC) to constitute the OIC Monitoring Team as soon as possible.

The **visit area in Maguindanao appeared to be relatively peaceful** for several months already, more so with the recent capture of the Pentagon kidnap gang leader. The area appeared to be unaffected by the current trouble areas in Jolo island, Basilan island, and Zamboanga peninsula where there were some hostilities with the Moro National Liberation Front (MNLF)-Misuari faction and with the Abu Sayyaf, the latter being the target of ongoing joint military exercises between the AFP and U.S. Armed Forces in Basilan. Of course, Maguindanao, even in relative calm, is still a risk-area. Thus,

Geneva Call's effort for security coordination and arrangements with both the DND-AFP and MILF for a visit which was **finally scheduled for within 3-12 April 2002**. This schedule was based also on the common availability of the mission members and on the dry season weather conditions for field visits.

The Geneva Call Director for Asia made a **preparatory visit to Cotabato City, Maguindanao** on 10-14 February 2002 to firm up preparations and arrangements at that end not only with the MILF through Atty. Ali but also with local NGO partners and contacts. It was during this preparatory visit that the **schedule, itinerary and program for the main visit was finalized** with the inclusion of planned visits to two field camps and two landmine-affected villages. The former was important for the mission to be able to meet with field commanders, the ones who deal with landmines matters, and conduct field inspection. The latter was important for the mission to be able to conduct ground verification and assess mine action needs.

On 19 February 2002, Atty. Ali (by authority of Al Haj Murad), conveyed to the Geneva Call Director for Asia "the **MILF's approval of the proposed Geneva Call actual visit to the MILF** on April 6 up to April 9 or April 10, 2002... As this will involve transit through the national highways connected to Cotabato City, this will require prior coordination, security and safety measures with the AFP. I trust you can work this out with the Philippine government... The MILF knows that this is significant not only for Mindanao, our homeland, and the Republic of the Philippines, but also far beyond... May your efforts indeed bring some positive developments in the overall peace process in Mindanao."

Soon after this, the six-person **composition of the mission was finalized**. It was a balance of three Filipinos and three foreigners (to the Philippines), one from India based in Sri Lanka, one from France based in Switzerland, and one from Pakistan. The three foreigners represented several relevant aspects of the landmines issue: military utility; mine clearance, awareness, and victim assistance; and the Islamic perspective. The three Filipinos included persons with expertise in international humanitarian law, the Mindanao peace process, and landmine monitoring and research. [profiles of the mission members are among the appendices] Consultation meetings between Geneva Call and some of the mission members were held in Geneva on 15 January and 13 March 2002.

On 14 March 2002, **PAPP Sec. Ermita favorably endorsed Geneva Call's request for the DND-AFP to approve and provide security to the Mindanao Mission**. He also informed President Arroyo about this and asked Presidential Assistant Jesus G. Dureza, Chairman of the GRP Peace Panel for Talks with the MILF, to assist in facilitating the visit. He then wrote the Geneva Call Director for Asia that "my office will highly appreciate receiving a copy of your Mission Report as the Mission's objectives have great bearing on Government's on-going negotiations with the MILF." Geneva Call took this favorable endorsement as the government's go-signal for the visit. So, it was all systems go.

Around 19 March 2002, however, the Geneva Call Director for Asia learned from Asec. Ciron that the **DND-AFP was not inclined to approve the coming visit** because, among others, “the government cannot assure the safety of the GC members.” While **frantically seeking reconsideration of this position**, including up to the level of the President, but compounded by the long holiday period around Holy Week, Geneva Call and its Mindanao Mission, upon internal consultation as well as with the MILF’s Atty. Ali for the feasibility of a “**Plan B**,” decided to push through with the visit, albeit scaled down to exclude the former planned venues where AFP security escort in transit would be necessary to ensure safety. There would, of course, still be an element of calculated risk but the organization felt that the preparations had gone far ahead already and that it had to seize the moment or else lose momentum, including the availability of mission members.

During this lead up to the visit, PCBL, on behalf of Geneva Call, sought and got the assistance of the **Department of Foreign Affairs (DFA)**, particularly its Office of the United Nations and International Organizations (UNIO) and the Philippine embassies/consulates in Islamabad and Colombo, to **facilitate the visas** for two of the foreigner members of the mission. There was also expression of **support for the visit** from the Philippine mission in Geneva. Finally, on 1 April 2002, **DND’s Asec. Ciron formally communicated to the Geneva Call Director for Asia “that this Department is not inclined at this time to grant your request in light of serious security considerations.”** But the die is cast. The mission, like the proverbial show, must go on.

[SHAPE OF THE VISIT](#)

As it turned out due to last-minute adjustments adjustments, the Geneva Call mission to visit the MILF took the shape of three days of meetings:

- (1) **on 5 April 2002 – courtesy calls and mutual briefings in the Metro-Manila area** with:
 - a) Office of the Chief, Ordnance & Chemical Services (OCOCS), AFP Explosives & Ordnance Disposal (EOD) Battalion, Philippine Army (PA)
Briefing by Capt. Roberto Simara of the EOD Battalion, PA
 - b) Sec. Angelo T. Reyes, DND
 - c) Dominique Dufour, Head of Delegation, International Committee of the Red Cross (ICRC)-Manila
 - d) Office of the Presidential Adviser on the Peace Process (OPAPP)
Briefing by Marinneth S. Babao, Public Affairs staffperson, GRP Peace Panel for Talks with the MILF, and OPAPP Director Gracia Gorgonia
Courtesy call with Sec. Eduardo R. Ermita, PAPP

- (2) **on 7 April 2002 – morning meeting of two Filipino members** (Atty. Soliman M. Santos, Jr. & Prof. Miriam Coronel-Ferrer), **on behalf of the whole mission, with MILF leaders led by Al Haj Murad** (MILF Vice-Chairman for Military Affairs,

BIAF Chief of Staff, & MILF Peace Panel Chairman) **in his field camp somewhere in Maguindanao**. Other MILF leaders present were Atty. Lanang S. Ali (MILF Legal Counsel & a Peace Panel member), Mohagher Iqbal (Chairman, Committee on Information, Central Committee, MILF), Tops Julhani (MILF CCCH Chairperson & a BIAF Division Commander), and Dan Dimakenal (MILF CCCH Senior Member & a BIAF General Staff member).

- (3) **on 8 April 2002 - afternoon meeting of the whole mission with a duly authorized MILF panel** composed of Atty. Ali, Datu Michael O. Mastura (a MILF Peace Panel member), and Atty. Musib M. Buat (MILF Technical Committee Chairperson) **in Seven Suites, Antipolo City**.

The second and third (7 & 8 April) components above were largely determined by the 5 April morning courtesy call of the mission with DND Sec. Reyes. Aside from the security considerations, he raised, for the very first time in more than one year of communication, political and foreign policy considerations about the visit, particularly about foreigners visiting the MILF in its claimed “camps” in the field. In the end, he posed a requirement of DFA clearance for the foreign members of the mission to be able to proceed to Mindanao, which he volunteered to immediately write DFA Sec. Teofisto T. Guingona, Jr. about. Under the circumstances, the mission head acquiesced and gave his word to abide by this requirement, and this was done in the interest of safeguarding the mission and, more importantly, further work in the Philippines by Geneva Call.

Estimating that the DFA clearance for the foreign members, if ever, would not be forthcoming in time given their limited stay in the Philippines, the mission decided to at least send its Filipino members, on behalf of the whole mission, on 6 April to Mindanao to meet with the MILF. This was the least the mission could do, to also better explain the change in plans to the MILF which had prepared to host the whole mission. It was the MILF which offered the third (8 April) component by authorizing a three-person panel so that the foreign members of the mission staying behind in Manila could also talk with MILF representatives since this was the main purpose of the mission. It turned out that this second meeting with MILF representatives in Manila was a good follow-through and consolidation of the first meeting with MILF leaders in Mindanao. **In terms of substantive discussions, this report will treat these two meetings with the MILF as one.**

The 5 April morning briefing with the OCOCS and EOD was the **main input from the DND-AFP side on landmine use by the MILF**. The mission would then get the MILF side on this matter at the 7 & 8 April meetings with them.. The 5 April afternoon briefing at the OPAPP provided an overview of the **broader peace process context involving the MILF**. This was capped by a courtesy call with PAPP Sec. Ermita who not only gave an additional historical perspective about war and peace in Mindanao but was also very welcoming, encouraging and supportive of the mission. The 5 April afternoon courtesy call with ICRC-Manila provided a **good insight into international humanitarian work and the politico-military situation and dynamics**

in Mindanao and the Philippines. All told, it was a very instructive one day of briefings and courtesy calls for a mission of this sort. Now, we go into the meat of this report.

[AFP REPORTS & OBSERVATIONS ON LANDMINE USE BY THE MILF](#)

The OCOCS-EOD briefing on landmine use by the MILF gave a general or summary picture of the matter as well as provided some specific findings. According to the briefing, the MILF has planted landmines, both anti-personnel mines (APMs) and anti-tank mines (ATMs), and that these are **all “victim-activated.”** The EOD has made more than 100 recoveries of landmines, with some still unrecovered and posing a danger. **The landmines recovered were of three types:** improvised APMs (Cartridge 60 mm High Explosive), improvised APMs (steel ammo-box), and improvised ATMs (plastic container). All three types were described as **“mechanical, booby-trapped, victim-activated.”**

The briefing showed **several sample landmines recovered but these were mostly either command-detonated or with timing devices** (in effect, time-bombs), hence not coming under the category of APMs. Although the landmines recovered were stated to be all improvised, there was one exceptional recovery from an overrun MILF camp of a 1972 vintage French APM (M59) which is pressure-type, all plastic and without metal. But no other factory-manufactured mines have been found. Whatever field “factories” there are or may have been, these are/were for improvised landmines.

According to the briefing, it is **difficult to say whether the reported landmining incidents and landmines recovered involved landmines laid during or after the “all-out war” in the summer (April-July) of 2000** (note that the MILF signed the “Deed of Commitment” on 27 March 2000). Improvised landmines have an estimated maximum field life of 2-3 years. But one recent (around September 2001) recovery in the vicinity of the former MILF Camp Abubakar, was said to be of a newly-laid mine because it was newly painted and assembled. (Though the mission’s technical expert said this is not conclusive without ground verification.)

One disturbing aspect about **some of the improvised ATMs (plastic container)** reportedly recovered during the assault and mopping-up operations at Camp Abubakar was that the pressure mechanisms of some were such that they did not require much weight to be triggered, e.g. just 7-15 pounds or the weight of a child. **Such ATMs are, therefore, also in effect APMs.**

As to the **placement of MILF landmines**, the briefing indicated the **most likely locations of two types.** One type might be described as defense lines of the MILF. This included some corn and rice fields around the Camp Abubakar where there were many landmine casualties of the AFP during the “all-out war” assault on the camp. The other type might be described as places where the MILF expects the AFP to be around: resting

places, trails, ambush sites, assembly areas, and near patrol bases. In sum, MILF landmines were mainly used for perimeter defense or otherwise directed at AFP troops.

It was clear from the briefing, however, that there are **no minefields** in the Philippines. Neither is there any marking except by the AFP when it detects landmines in the vicinity. Some EOD training in detection and marking is given to the troops and even to civilians in affected areas.

As for **casualties**, particularly in 2001, the briefing showed the OCOCS Landmine Incident Journal. This has the same information as that in the matrix of landmining incidents provided to PCBL (for its *Landmine Monitor* research) by the AFP Deputy Chief of Staff for Operations, J3, on 20 March 2002. Of the four reported incidents in MILF areas, there were only three wounded AFP personnel. This is apart from one incident in a MNLF area where there were 12 wounded AFP personnel from an ATM explosion, and one incident in a New People's Army (NPA) area where there were two wounded civilians.

In the said J3 matrix of landmining incidents as well as landmines recovered in 2001, the landmining (explosion) incidents numbered only seven, broken down according to rebel group *area* as follows: MILF –4; MNLF – 2; NPA- 1. And in terms of landmines recovered, there were 17 recovery activities, the breakdown according to rebel group *area* is as follows: MILF – 9; MNLF – 5; NPA –3. Note that these figures concern known *areas* of operation of these rebel groups. It does not follow that these groups were indeed responsible for those landmines. In fact, in the J3 matrix on landmines recovered, only four out of the nine recoveries in MILF areas are indicated as “*believed to be laid by the MILF*” or otherwise attributed to the MILF.

The said matrix **appears to be incomplete** because the impression from news reports alone is that there are more incidents and recoveries, and some of the more sensational ones are not even reported in the matrix. Much of the data in the matrix is also not specific as to whether the landmine concerned was victim-activated or command-detonated, or whether it was an APM or ATM. Only one incident and one recovery in a MILF area are indicated to involve an APM and two pressure-release landmines, respectively.

The briefing also entertained questions about **AFP use of landmines**. The AFP has consistently stated that it no longer uses APMs after its entire APM inventory of composed of 2,640 Claymore mines were disposed of on 18 July 1998 pursuant to an existing policy against the use of APMs. It must be noted, however, that Claymore mines may be used in either victim-activated (which is illegal) or command-detonated (which is legal) mode. So, it is not the Claymore mine *per se* but its mode of use which makes it legal or illegal under the 1997 Ottawa Treaty. According to the briefing, the AFP previously used Claymore mines in command-detonated mode for perimeter defense of small field detachments.

All told, even with underreporting of landmine incidents and recoveries, the mission found the **current landmine, especially APM, problem in Mindanao to be fortunately of relatively small or minor scale** (more so when compared with other countries the mission members are familiar with like Afghanistan, Cambodia and Sri Lanka, all in Asia). This could be credited to all the parties in the internal armed conflicts in the Philippines which have consciously avoided endangering the civilian population in the countryside through wide-scale and indiscriminate landmine use as part of their respective military doctrines.

LANDMINE INCIDENTS & RECOVERIES IN MILF AREAS IN 2001

From the aforementioned J3 matrix of landmining incidents and landmines recovered in 2001, we picked out those involving MILF *areas*, following the order in which they appear and highlighting some available data as it appears in the matrix [a copy is among the appendices to this report]. This became the **main reference material to get the MILF responses and side on the matter** (note the reference codes or numbers for purposes of this report).

Landmining Incidents (LI):

LI No. 2 - 4 July 2001 – Bgy. Upper Iginagampong, Shariff Aguak, Maguindanao - A landmine exploded while soldiers were conducting route security in the area.

LI No. 4- 16 July 2001, 0835H - along Cotabato-Isulan *Highway*, Bgy. Meta, Shariff Aguak, Maguindanao - An improvised landmine made of 81 mm mortar exploded while soldiers were on patrol.

LI No. 5 - 16 July 2001, 1300H – along Cotabato-Isulan *Highway*, Bgy. Iginagampong, Shariff Aguak, Maguindanao – A homemade *anti-personnel landmine* made of one 81 mm mortar ammo exploded.

LI No. 7 - 11 November 2001 – So. Baog, Bgy. Kauran, Ampatuan, Maguindanao – Two landmines exploded while soldiers were conducting mine clearing.

Landmines Recovered (LR):

LR No. 2 – 2 April 2001 – So. Bumbaran, Bgy. Tugaig, Barira, Maguindanao – Soldiers recovered two landmines fashioned from 60 mm mortar rounds *believed to be planted by MILF rebels* during troops reconnaissance in force there.

LR No. 3– 8 April 2001 – Bgy. Ranzo, Carmen, Cotabato – Soldiers recovered one improvised landmine made of 60 mm mortar ammo.

LR No. 5– 24 April 2001 – So. Bombaran, Bgy. Tugaig, Barira, Maguindanao – Soldiers discovered one *newly installed* improvised landmine fashioned from a 81 mm

mortar round with wirings during troops security patrol. It was *believed to be laid by MILF rebels*.

LR No. 7 - 19 July 2001 – Bgy. Upper Maitumaig, Shariff Aguak, Maguindanao – Soldiers recovered an improvised landmine made of one 81 mm mortar ammo with blasting cap and a *timer device* during route security operations. It was *believed to be laid by MILF rebels*.

LR No. 8 – 30 July 2001 - along Bgy. Crossing Salvo *Highway*, Poblacion, Datu Piang, Maguindanao - Soldiers recovered a *MILF*-improvised landmine made of 60 mm mortar with *electric* blasting cap and *timing device* during troops reconnaissance in force there.

LR No. 10 - 3 October 2001 – vicinity of the abandoned Condor Detachment of AFP, Bgy. Nuyo, Buldon, Maguindanao – Soldiers recovered an improvised landmine made of 60 mm mortar ammo.

LR No. 11 - 6 October 2001 - Soldiers recovered one improvised landmine made from a 60 mm mortar ammo during troops security operations.

LR No. 12 - 16 November 2001 - Bgy. Maitumaig, Shariff Aguak, Maguindanao – Soldiers recovered an improvised *battery-operated* landmine made from a 81 mm mortar ammo while conducting patrol.

LR NO. 13 - 19 November 2001 - Bgy. Macasampan, Talayan, Maguindanao – Soldiers discovered two improvised landmines composed of one 81 mm and one 60 mm mortar ammos (*pressure release*).

Unfortunately, because of the adjustments in the shape of the visit which precluded ground verification and field inspection, **these and other reports could not be independently verified as well as further investigated to deepen and complete the data with the participation of technical experts** like the foreigner members of the mission.

The **closest instance of actual field verification** was during the 18-21 August 2000 preliminary exploratory visit made by the Geneva Call Director for Asia to Cotabato City when he was invited on the spur of the moment to accompany and witness the 6EOD unit then led by Capt. Simara in its recovery and disposal of one improvised trip-wired APM (using a 60 mm mortar round) in the vicinity of a small Marine field detachment somewhere in Bgy. Bayanga, Matanog, Maguindanao on 19 August 2000, just over a month after the taking of nearby Camp Abubakar. The 60 mm mortar round had an aluminum or stainless tail-pin (extended stabilizing fin) which is said to be one of the distinguishing marks of 60 mm mortar rounds most commonly used by the MILF, in contrast to the olive drab tail-pins of 60 mm mortar rounds used by the AFP. The tripwire was about four meters long, about one-and-a-half feet above the ground, and tied between, on one end, the tip of the mortar round which was facing upward while secured

on a small stem, and on the other end, the trunk of a small tree. The Geneva Call Director took photographs of the recovery and disposal. Under the circumstances, he has no reason to believe that the operation was staged for him for propaganda purposes. The experience underscores the desirability and advantages of actual field verification.

MILF RESPONSES TO ALLEGED VIOLATIONS

With or without actual field verification, there is also **merit in asking the party concerned about its side or responses** regarding alleged violations of its commitment to a total ban on anti-personnel landmines, pursuant to fair play. The mission's two meetings with the MILF on 7 & 8 April 2002 were the occasions for this, with Al Haj Murad and Atty. Ali giving most of the responses. The process of dialogue to thresh out the incidents and the issues contained **some elements of verification as well as clarification**. The mere fact of cooperatively receiving and making responses to the mission regarding alleged violations was **already a measure of the MILF's accountability under a new international mechanism**.

The MILF's general responses may be summarized as follows :

- 1) It has doubts about AFP reports on the MILF's alleged violations because the AFP can just plant evidence or fabricate reports for propaganda purposes against the MILF. There must be some cross-checking by the MILF or better still prior investigation or verification by a neutral third party like Geneva Call before the recovery and disposal of landmines in the field.
- 2) During the "all-out war" in the summer (April-July) of 2000, the MILF employed "string-pulled command-detonated" improvised landmines in the defense lines in the blocking areas of their camps then under assault by the AFP. Some of these landmines were left behind by MILF troops in their withdrawal from the blocking areas. These may have been involved in some of the landmine incidents and recoveries.
- 3) Also during the "all-out war," there was much aerial and artillery bombardment by the AFP against MILF camps. This resulted in much unexploded ordnance (UXO) like aerial bombs, howitzer and mortar rounds as well as shrapnel on the ground which have remained largely uncleared up to the present. Oftentimes, unexploded mortar rounds go beneath the ground and later become or seem like planted landmines but they are actually UXO.
- 4) Since the "all-out war," many of the open areas of the former MILF camps as well as areas along the national highways have come and been under the control of the AFP. If there are any newly-laid landmines in these areas, it cannot come from the MILF. The MILF believes that the AFP is now using landmines, particularly Claymore mines, for perimeter defense of its occupied areas in the former MILF camps, and suggests joint verification of this with a third party.

- 5) Since then also, the MILF has shifted from positional to guerrilla warfare where it no longer has defense lines of the sort that would entail its previous defensive use of landmines. Such previous use would be counter-productive to the mobility and Muslim mass base required for its guerrilla warfare.

Some of these general responses are reflected in **MILF's particular responses to specific landmining incidents (LIs) and landmines recovered (LRs) in MILF areas in 2001** per the J3 matrix (referred to in the preceding section):

LI No. 2 - The place is controlled by the AFP with an Army detachment near the highway for along a time; it happened after the "all-out war;" reported only by the AFP without being verified.

LI No. 4 - It occurred on a highway guarded by the AFP.

LI No. 5 - It involves a highway which is guarded by the AFP.

LI No. 7 - The place is located on the highway, controlled by the AFP.

LR No. 2 - It occurred a long time after the "all-out war;" the place is already under the control of the AFP; these 60 mm mortar rounds may be attributed to the ones that did not explode during the war.

LR No. 3 - The place is an NPA area; we cannot say that this is an MILF mine.

LR No. 5 - It happened a long time after the "all-out war;" the AFP cannot say that this was intentionally planted because this involves a 81 mm mortar round which is found in the armory of the AFP.

LR No. 8 - Considering the time element, it is almost a year after the "all-out war."

LR No. 10 - The MILF doubts the report of landmines recovered; the AFP can just produce/plant evidence.

Whether right or wrong, these responses could really be ascertained only through a site visit. As stated earlier, the mission could not undertake a site visit anymore given the adjustments in the shape of the visit.

As for the one case of actual field verification made by the Geneva Call Director for Asia on 19 August 2000 near a Marine detachment in Bgy. Bayanga, Matanog, Maguindanao, the MILF said that although this was near the former Camp Abubakar, it never deployed defense blocking in that particular place which is part of a civilian area. Regarding the fact that only one improvised landmine was recovered, they said that in their former camp defense lines, they would have laid not just one but a series of landmines.

Going back to the MILF's admitted use of "string-pulled command-detonated" improvised landmines in the defense lines of its camps then under assault by the AFP in the summer (April-July) of 2000, **the MILF put on record what it viewed as the AFP's "excessive use of force,"** particularly in terms of intense aerial droppings of 500 pound bombs and artillery shelling of 105 mm howitzer rounds. In the **context of that "all-out war"** by the AFP against the MILF camps, the MILF was compelled to take "all-out defensive military actions," including the use of landmines, "for the defense, preservation or survival of the MILF." It viewed the "defensive and discriminate" use of landmines as strictly in accordance with Islamic rules and discipline.

According to the MILF, it **no longer has any foreign-manufactured landmines** in its arsenal. Those pressure-triggered APMs it acquired from abroad in 1973 to 1975, when it was still part of a united MNLF (from which it split later in 1977), were never used since it was engaged in extensive guerrilla warfare. Their limited supply seemed to have disappeared over time. After 1975, it did not acquire any more APMs. After that, it eventually developed its own munitions production, including of improvised landmines. This was not mass production but as the need arose, such as for blocking requirements for the defense of its camps, after it shifted from guerrilla to positional warfare. In more recent years, after the taking of the last of its major camps in July 2000 and its subsequent re-shift from positional to guerrilla warfare, its **munitions production is more limited** and it **does not stockpile landmines** because it is mobile. They also say they have **experts in demining.**

[MISSION'S RESOLUTION OF SOME ISSUES](#)

To repeat, with regards to specific reported landmining incidents and landmines recovered being attributed to the MILF, unfortunately, because of the adjustments in the shape of the visit which precluded ground verification and field inspection, **these and other reports could not be independently verified as well as further investigated to deepen and complete the data with the participation of technical experts** like the foreigner members of the mission. **Whether right or wrong, these reports could really be ascertained only through site visit.** At the same time, we refer the reader to the full **technical report** prepared by mission member Andre-Marc Farineau of the Swiss Federation for Mine Action (FSD) [a copy is among the appendices] with these **initial conclusions** :

- a. **Use of anti-personnel landmines by MILF:** Due to the security restrictions placed on travel to the Mindanao region, the GC team has not been able to verify whether or not the MILF has complied with the GC Deed of Commitment banning the use of anti-personnel landmines. There are however a number of positive indications but these still need to be independently verified.
- b. **Stockpile of anti-personnel landmines:** The MILF claims to have no stockpiles of anti-personnel landmines, this claim appears also to be verified

by the AFP who on the occasions of capturing MILF camps have found no evidence of stockpiles. Additionally most of the mines used in the past by the MILF were of an improvised nature, normally made on a day-to-day basis, thus negating the need for stockpiles.

- c. **Clearance of anti-personnel landmines:** Within the MILF, there are currently no teams trained or equipped to undertake the search and clearance of anti-personnel landmines. The AFP has a number of EOD units operating in the region, however, these teams are not trained or equipped to conduct humanitarian mine clearance operations to international standards. Thus, there is currently no capacity dedicated to the clearance of landmines in the Mindanao region.

As for the one case of actual field verification made by the Geneva Call Director for Asia on 19 August 2000 near a Marine detachment in Bgy. Bayanga, Matanog, Maguindanao, the mission is inclined to believe that the recovery of one improvised trip-wired APM using a 60 mm mortar round was genuine and that its aluminum or stainless tail-pin tends to point to a MILF source, either as a remnant of the defense of Camp Abubakar or to harass the Marine detachment. The MILF is known to be capable of producing its own 60 mm and 81 mm mortar rounds, and of using these or captured AFP mortar rounds for improvised landmines. These mortar rounds, especially as improvised landmines, are usually for anti-personnel rather than anti-tank use.

We note that the reported landmines recovered in MILF areas appear to be mostly improvised ones using 60 mm or 81 mm mortar rounds. Again, the mission is inclined to believe that these recoveries were genuine and not fabricated or planted. Some recovery operations (not to mention the landmining incidents) have resulted in injuries to soldiers. Circumstantial evidence of intent/motive, capability/capacity and opportunity would tend to point to a MILF source, whether during the time of positional (fixed camps) or more recent guerrilla mode.

Guerrilla warfare precisely includes going behind enemy lines. Between the fall of Camp Abubakar on 8 July 2000 and the MILF's suspension of offensive military actions (SOMA) on 3 April 2001 is a considerable period of nine months for guerrilla warfare. **Did this give birth to newly-laid landmines? As indicated above, it is difficult to say, as there is no hard evidence or full proof.** Much of the data in the J3 matrix is also not specific as to whether the landmine concerned was victim-activated or command-detonated, or whether it was an APM or ATM. After all, what is covered by the MILF's "Deed of Commitment" is a total ban on APMs, understood to be victim-activated.

The MILF's admitted use of "string-pulled command-detonated" improvised landmines in the defense lines of its camps then under assault by the AFP in the summer (April-July) of 2000 provided the mission with an opportunity to clarify the technical concept of "command detonation." Unfortunately, this crucial concept is not found in the 1997 Ottawa Treaty nor in the 1996 Mines Protocol (Amended Protocol II) to the 1980

Convention on Certain Conventional Weapons (CCW). Mission member Farineau of FSD presented and explained the **internationally accepted concept of “command detonation”** (accessed from “<http://members.aol.com/panzersgt/theory/mines.html>):

Command detonation is not really a fuze but it provides the same effect. In this system a person manually detonates a mine electrically by an electric firing mechanism. This system allows total control over the mine’s effect but requires a person to be present. Command detonation is normally used with directional mines such as the Claymore. (underscoring supplied)

The three underscored elements must concur, i.e. be all present. Based on this concept, **the MILF’s “string-pulled” improvised landmines using mortar rounds can not be “command-detonated.”** They are not detonated electrically. They do not allow total control because, if not under permanent surveillance, anyone or anything can trip the strings and activate the mines by accident, making it victim-activated. Also, mortar rounds used as improvised landmines are not directional.

Furthermore, the “string-pulled” mode is impracticable or even physically impossible because the underbrush, bushes, plants, crops, trees and other obstructions are likely to get in the way between the improvised landmine and the string-puller who must be a certain distance away or otherwise protected from the explosion. The lethal radius of a 60 mm mortar round is at least 10 meters while that of an 81 mm mortar round is at least 30 meters.

On both legal as well as practical grounds, the MILF should no longer employ “string-pulled” improvised landmines even in attempted or purported “command-detonated” mode. This was **understood and accepted well by the MILF panel** which met with the mission on 8 April 2002.

While ATMs are not banned or covered, whether by the MILF’s “Deed of Commitment” or by the 1997 Ottawa Treaty, the MILF should **take care that its pressure-triggered improvised ATMs such as those using plastic containers do not have the same effect as APMs** which would be the case if their pressure mechanisms can be triggered by relatively light pressure or weight such as that of an ordinary person. The Deed of Commitment defines APMs as including “anti-vehicle mines with the same effect” as APMs. In any case, ATMs are regulated by the 1996 Mines Protocol which has specifically been made applicable to internal armed conflict and the parties to the conflict. (Incidentally, the Philippines has ratified both the 1997 Ottawa Treaty and the 1996 Mines Protocol.)

The mission also understood, without necessarily accepting, the MILF’s resort to “all-out defensive military actions,” including the use of landmines, “for the defense, preservation or survival of the MILF” in the **context of the “all-out war”** and **“excessive use of force”** by the AFP. But the MILF commitment is to a total ban on APMs “under any circumstances,” following the international norm in the 1997 Ottawa Treaty and now incorporated in the new version of the “Deed of Commitment” **The ends of defense, preservation or survival do not justify the “use of all available weapons.”** If that

were so, then we might as well allow biological, chemical and nuclear weapons. Such weapons, as with APMs and with “acts of terrorism,” can be and have been characterized as un-Islamic, aside from being contrary to principles and provisions of international humanitarian law (IHL).

While reciprocity in the observance of the rules of war would be ideal, the violations of one side do not justify the commission of violations by the other side. **The mission is glad that the MILF has finally accepted that its commitment to a total ban of APMs, understood as victim-activated, carries no exceptions even for defense, because of their potential danger to victimize civilians even after the cessation of hostilities.**

The mission understands the MILF’s **concern for balance in looking at both conflicting parties**, the MILF-BIAF and the GRP-AFP, in looking at both sides’ compliance with their respective commitments under the “Deed of Commitment” and under the 1997 Ottawa Treaty, in looking at both the MILF’s use of improvised landmines and the AFP’s possible renewed use of Claymore mines, in looking at both sides’ violations of the rules of war, whether in landmine use or aerial bombardment. **Geneva Call’s mandate is limited to engaging armed/rebel groups to respect humanitarian norms, starting with adherence to the landmines ban, and to be accountable therefor.** But it relates and can relate with other independent humanitarian organizations with complementary mandates, such PCBL which also engages the Philippine government on the landmines issue and the ICRC which engages all parties in armed conflicts on humanitarian issues.

The mission believes it can put **an element of closure** to the matter of the MILF’s alleged past violations of its earlier commitment to a total ban on APMs, given the discussion above, even without the benefit of site verification due to constraints on the mission. As already stated, the process of dialogue to thresh out the incidents and the issues contained **some elements of verification as well as clarification**. The mere fact of cooperatively receiving and making responses to the mission regarding alleged violations was **already a measure of the MILF’s accountability under a new international mechanism**. It is time, more importantly, to look forward and move on.

[MILF’S NEW DEED OF COMMITMENT & ITS SIGNIFICANCE](#)

One of the highlights of the mission, perhaps its most dramatic one, is the **signing of the new “Deed of Commitment under Geneva Call for Adherence to a Total Ban on Anti-Personnel Mines and for Cooperation in Mine Action” by the MILF’s Al Haj Murad (MILF Vice-Chairman for Military Affairs, BIAF Chief of Staff, & MILF Peace Panel Chairman) in his field camp somewhere in Maguindanao** at the end of his 7 April 2002 meeting with two Filipino members who proceeded there on behalf of the whole mission. This is **significant in at least two ways**.

First, is that the Deed of Commitment is enhanced by the signature on it by a very high authority of the MILF, in fact that most authoritative MILF leader both for military affairs and for peace talks. This represents a **higher level of commitment by the MILF** to a total ban on APMs. **Second**, the new Deed of Commitment itself, in content and form, is a **significant improvement over the old Deed of Commitment** signed by MILF representative Atty. Lanang S. Ali on 27 March 2000 in Geneva. [copies of the old and new Deeds of Commitment are among the appendices]

Both the old and new Deeds of Commitment are standard/uniform documents which Geneva Call has developed as a new international instrument for adherence and accountability of armed/rebel groups to humanitarian norms starting with the landmines ban. The new Deed adds two new prefatory paragraphs (the last two) and five new operative paragraphs (Nos. 6-10) to the old Deed. What is significant in the two new prefatory paragraphs are the reference to *human rights (aside from IHL) as applying to all parties to armed conflicts*, and the *acknowledgment of the 1997 Ottawa Treaty norm of a total ban on APMs as a step toward the total eradication of landmines*.

The use of **human rights as an additional term of reference** regarding landmines improves on the 1997 Ottawa Treaty's use of only IHL as a term of reference. This reflects the new thinking in international law that not only states but also armed/rebel groups are bound by human rights. This is not to deflect from the states' primary responsibility for human rights but to assert human rights as against all forces which may violate them, whether state or non-state. It also raises the standards for conduct of armed/rebel groups without affecting their legal status. The perspective of total eradication of landmines connotes not only a legal ban on paper but also the clearing of mines on the ground. It also connotes the **eventual banning of all landmines**, including Claymore, command-detonated and anti-tank mines at some kinder and gentler time and world in the future.

The new Deed of Commitment adds two important phrases (previously overlooked) from the 1997 Ottawa Treaty to operative paragraph No. 1 of the old Deed in its definition of total ban. One is the added qualification "*under any circumstances*." This **would cover such circumstances as "all-out war" and "defense"** as discussed in the preceding section. The other one is the new last sentence "*This includes an undertaking on the destruction of all such mines*." This is important as basis for mine clearance and stockpile destruction.

The new Deed of Commitment basically retains the old Deed's **effect-oriented definition of APM** which is superior to the 1997 Ottawa Treaty's design-oriented definition. A landmine *designed* as an ATM may have the same *effect* as an APM. The effect-oriented definition of APMs **covers ATMs which have the same effect as APMs**. This reflects the new thinking in the global movement against landmines and particularly the work of the German Initiative to Ban Landmines on "Why Anti-Vehicle Mines Should Also Be Banned."

The **next four operative paragraphs (Nos. 2-5)** of the new Deed of Commitment are basically the same as in the old Deed, dealing respectively with:

- **cooperation in mine action** (e.g. mine clearance, awareness, and victim assistance)
- **the accountability mechanism** of monitoring and verification, visits and inspections, and information and reports
- **implementation measures** of orders and directives, information dissemination and training, and disciplinary sanctions
- **broader commitment to humanitarian norms**, and contribution to their respect and further development

The **five new operative paragraphs (Nos. 6-10)** of the new Deed of Commitment deal respectively with:

- **non-effect on legal status**
- **publicizing compliance or non-compliance**
- **attracting adherence of other armed groups**
- **complementing or superceding existing unilateral declarations on APMs**
- **effectivity upon its signing and receipt by Government of the Republic and Canton of Geneva as custodian** (in this case on 25 April 2002)

In terms of form, the new Deed of Commitment is signed by representatives not only of the armed/rebel group concerned (the name of which appears on the first page, which was absent in the old Deed) but also of Geneva Call and of the Geneva Government. The latter signatures in particular **add solemnity and weight to the Deed as an international instrument and also signify Geneva Call's responsibility to assist its implementation.**

There was some particular discussion between the mission and the MILF panel at the 8 April 2002 meeting regarding the new Deed of Commitment's operative paragraphs 6 (non-effect on legal status) and 9 (complementing or superceding existing unilateral declarations on APMs). Paragraph 6 makes reference to "the relevant clause in **common article 3 of the Geneva Conventions of August 12, 1949.**" Said clause reads: "The application of the preceding provisions shall not affect the legal status of the Parties to the conflict." Applied to or adopted by the new Deed of Commitment, it simply means that **signing it does not add to or subtract from the existing *legal* status of the armed/rebel group concerned. It does not mention anything about *moral* or *political* status.** Certainly, adherence in word and deed to humanitarian norms would add to the moral status or ascendancy of the entity concerned, whether state or non-state.

The MILF panel pointed out that common article 3 is not spelled out in the new Deed of Commitment. The mission responded by offering to "remedy" this through **Geneva Call's transmittal to the MILF of a copy of common article 3** together with a covering note and an original copy of the new Deed duly received by the Geneva Government. The MILF panel found this arrangement acceptable. Common article 3 is, of course, readily available to the general public, especially from ICRC which has widely disseminated it. It provides the minimum humanitarian rules in case of armed conflicts

not of an international character, and it is absolutely binding and non-derogable international law.

The new Deed of Commitment's operative paragraph 9 is actually a carry-over from the old Deed, and refers to the Deed complementing or superceding, "as the case may be, any existing unilateral declaration of ours on anti-personnel mines." **The new Deed, of course, supercedes the old one.** Be that as it may, the mission accommodated a request of the MILF panel to **retain the generic description "non-state actor"** (found in the first line of the old Deed) in addition to the name of the MILF. In all other wordings, the new Deed of the MILF is uniform with that of other signatory armed/rebel groups like the Sudan People's Liberation Movement/Army (SPLM/A).

Note also that what is complemented or superceded is any existing unilateral declaration of the group on APMs. It does not, therefore, touch or affect other matters (i.e. other than APMs) nor *bilateral agreements* involving APMs. In the case of the MILF, it has entered with the GRP into, among others, **"Implementing Guidelines on the Security Aspect of the GRP-MILF Tripoli Agreement of Peace of 2001" on 7 August 2001. This provides that "landminings" are among the aggressive actions which are considered prohibited hostile acts subject to cessation of hostilities.** Since it does not make any qualification, "landminings" presumably *cover both APMs and ATMs*. In fine, under this bilateral agreement, *while there is a ceasefire*, there is a ban on the use of both APMs and ATMs. Under the MILF's Deed of Commitment, the total ban on APMs applies "under any circumstances," *with or without ceasefire*.

After the MILF's Al Haj Murad signed the new Deed of Commitment on 7 April 2002 in his field camp, the two Filipino members of the mission handed him a **Filipino (Tagalog) translation of the new Deed of Commitment** to aid in its dissemination.

The mention of the Tripoli Peace Agreement is just as well. Some of the next steps after the MILF's signing of the new Deed of Commitment are related to the peace process and its progress.

[NEXT STEPS WITH THE MILF & ALSO THE GRP](#)

The MILF's Atty. Ali expressed it best when he earnestly said at this point in the discussion, "We are very sincere about the happenings on the ground... Please help us implement this commitment effectively." In view of this genuinely positive approach, we now move forward with the next steps arising from the meetings:

(1) Implementing Guidelines

This was a suggestion from the MILF side to the mission. While the new Deed of Commitment is standard for all signatory armed/rebel groups, implementing guidelines **to be drafted by Geneva Call, in consultation with the MILF, can address specific characteristics of the MILF situation as well as reflect some aspects arising from the**

foregoing discussion. Examples would be the clarification regarding “string-pulled” improvised landmines and the technical matter of ensuring that improvised ATMs do not have the same effect as APMs. The time frame for the first draft of the implementing guidelines is 30 days from its effectivity.

The implementing guidelines would naturally be **coordinated or co-related with the implementing measures referred to in operative paragraph 4 of the new Deed of Commitment.** This effort might also **contribute to and be co-related with the “Implementing Guidelines on the Security Aspect of the GRP-MILF Tripoli Agreement of Peace of 2001”** which itself may need more specific guidelines regarding its prohibition on “landminings.”

(2) Verification Mechanisms

From the very start of the mission’s meetings with the MILF, they suggested prior investigation or verification by a neutral third party like Geneva Call before the recovery and disposal of landmines in the field. **The MILF continues to be willing to receive a Geneva Call mission in the field to verify MILF compliance with its commitments.**

The **best and most feasible bet for sustained monitoring and verification, however, appears to be the implementing mechanism under the “Implementing Guidelines on the Security Aspect of the GRP-MILF Tripoli Agreement of Peace of 2001”** which includes the GRP and MILF Coordinating Committees on Cessation of Hostilities (CCCH), the Local Monitoring Teams (LMTs), and the Organization of the Islamic Conference (OIC) Monitoring Team. [a diagram of the structure of this mechanism is among the appendices]

The most promising component of this mechanism are the LMTs because these involve NGOs, the religious sector and the local government units (LGUs), all with a **wide network in the concerned provinces and municipalities.** The LMTs and for that matter the CCCH of both parties and the OIC Monitoring Team should ideally have some **orientation or training on landmine monitoring and verification** This could be **incorporated in the capability-building workshops and modules for the LMTs.** The premise of all this, of course, is progress in the ceasefire and peace talks. Some **formal proposal by Geneva Call and/or PCBL along this line would have to be submitted to both parties.**

(3) Mine Clearance

Mine and, for that matter, UXO clearance appears to be a necessity, even a precondition, for the full rehabilitation of certain areas, some of them of vital economic importance to the local communities and particularly hard hit during the “all-out war.” If one were to clear an area, it makes sense to clear not only landmines but also UXO and other remnants of war. This effort would entail the cooperation of both parties in the location and neutralization of each other’s remnants of war. The **best and most feasible arrangement for this is the PCBL proposal “Working Paper for GRP-MILF**

Joint Mine Clearance as a Measure for Rehabilitation and Confidence-Building dated 18 September 2001 [a copy is among the appendices]. It proposes that this be done first on a pilot basis in the most mine- and UXO-affected areas in the vicinity of the former MILF Camps Abubakar and Rajamuda. The MILF suggests the Abubakar vicinity as the first pilot area. They estimate that the joint mine clearance process may not take long if both parties cooperate.

The mine and UXO clearance effort must be set up and organized properly.

A first step would be an evaluation of the scale of the problem, such as by a level 1 general survey of contaminated areas. Then a determination of priorities, followed by a level 2 technical survey of priority areas. Proper marking should be done and other international humanitarian standards followed. The Swiss Federation for Mine Action (FSD), for one, can provide technical assistance.

The MILF is willing to submit only to Geneva Call its maps of its occupied areas and possible contaminated areas in the former Camp Abubakar. Geneva Call is currently studying arrangements for a **mapping database** in conjunction with its “Non-States Actors Database” where the **confidentiality and integrity** of such maps can be ensured.

(4) **Various Trainings**

The mission’s meetings with the MILF also brought out various trainings which may be needed. Aside from the more **specialized training for mine and UXO clearance as well as for mine and UXO monitoring and verification** (already mentioned above), suggestions were also made for **technical briefings and seminar-workshops for the BIAF general staff and field commanders**. This would be like **trainors’ training with a view to the lessons seeping down to the foot soldiers**. All these raise the possibility of developing **curricular, instructional and audio-visual materials**, including as part of the BIAF military curriculum.

For the effort and resources involved in conducting these trainings, it makes sense to **cover not only the landmines ban, a relatively small topic, but also other humanitarian norms** of IHL and human rights. For one, the ICRC has long been conducting IHL education and information dissemination with the MILF, as with the AFP. Of course, this has become more difficult with the MILF’s forced shift from fixed camps to guerrilla mode. But the **MILF says it can arrange for the ICRC, if the latter is willing, to continue with its IHL dissemination with added incorporation of the landmines aspect.**

Muslim civil society and other peace advocates might have a role, as they would be involved too in mine and UXO monitoring and verification and even some aspects of mine and UXO clearance like mine awareness, victim assistance and community rehabilitation. One Moro NGO, the **Institute of Bangsamoro Studies (IBS)**, has expressed interest in cooperating with Geneva Call and PCBL in doing mine ban and humanitarian education work which reaches the MILF foot soldiers. There is, therefore,

much potential, especially in terms of contributions to the broader peace process, in what can spin off from even only the initial mission.

SUMMING-UP THE GAINS, SHORTCOMINGS, LESSONS & PRESCRIPTIONS

The mission found the current landmine problem in Central Mindanao, especially as it relates to the MILF, to be of relatively small or minor scale. One might even say the problem is not significant. What is significant, far beyond Central Mindanao, is that the mission **successfully demonstrated, for the first time at an international level, that a new international mechanism for humanitarian adherence and accountability of armed/rebel groups is possible.** Particularly, as far as humanitarian norms of IHL and human rights are concerned, this mechanism can complement the international treaty system exclusive to states in order to cover the non-state other side of the coin.

The mission **also successfully demonstrated that there is another way to deal with armed/rebel groups, even those tagged as “terrorist,” other than the coercive ways of military action and criminal prosecution.** Some of these groups, at least, can be engaged to respect humanitarian norms, starting with the landmines ban but which can move on to cover the ban against torture, use of child soldiers, kidnapping and hostage-taking, civilian-targeted terrorist bombings and other “acts of terrorism” under IHL.. And that this engagement role is best played by impartial humanitarian non-governmental organizations which gain the trust and confidence of all concerned.

The mission believes or at least hopes that it was able to make **some contribution to the peace process not only in terms of the next steps outlined above and what these may achieve in helping the process move along at a time of some impasse but also in terms of showing some basis to have trust and confidence in the MILF.** By cooperatively receiving and making responses to the mission regarding alleged violations, it has shown a measure of accountability for humanitarian norms. It has provided an example for other armed/rebel groups.

What is clear from the whole experience, especially the long wait for the proposed visit to materialize, is the **inextricable link between humanitarian work and the peace process.** Progress in the latter paves the way for progress in the former. In the first place, a humanitarian mission to the field requires a minimum condition of ground safety which of course would be facilitated by an existing and effective ceasefire. Then, the mechanisms of the peace process can also be the mechanisms for humanitarian work. In the long run, it is a successful peace process which will be the best solution to humanitarian problems of armed conflict. On the other hand, humanitarian work can itself reinforce the peace process, including its confidence-building aspects. Progress in the former also paves the way for progress in the latter.

The mission has been able to secure a **clear and definitive commitment from the MILF at a very high level to a total and unconditional ban on anti-personnel mines,** understood to be victim-activated. The process of dialogue to thresh out the

incidents and the issues contained **some elements of verification as well as clarification**. In discussing the next steps to implement its new commitment, the mission was able to get a **fair idea of the extent of technical assistance needed** by the MILF for its own implementation measures. **Next steps were agreed upon in four areas:** implementing guidelines, verification mechanism, mine clearance, and various trainings.

The mission as well as Geneva Call has taken the occasion to **positively acknowledge the 26 February 2002 Resolution of MILF Central Committee “to reiterate MILF policy of strongly and continuously condemning all kidnap-for-ransom activities** in Mindanao and everywhere, and to take drastic action against the perpetrators of this heinous crime in all MILF areas” [a copy of this Resolution, with its 7 March 2002 covering note, is among the appendices]. Kidnapping-for-ransom and hostage-taking by armed/rebel groups have become a serious problem in a number of other countries, notably Colombia and Russia/Chechnya..

The mission was able to go as far as it had gone not only because of its determination and fidelity to its mandate, and the cooperation of the MILF, but also because of **certain favorable conditions in the Philippines** like its democratic space, vibrant civil society and progressive elements in government, including its domestic and foreign policies on the peace process and against the use of anti-personnel mines. **But at the last moment, not only security but also political and foreign policy considerations** were raised at the DND about the mission, particularly about foreigners visiting the MILF in its claimed “camps” in the field. For the mission and Geneva Call, particularly its Director for Asia, a Filipino in the Philippines, who coordinated the visit, this was **a lesson in “covering all the bases” in preparation and a lesson in approaching and dealing with government.**

On the other hand, one cannot always “cover all the bases” because there are always **matters beyond one’s control**. The mission came at a time of continuing national controversy about the ongoing joint military exercises between the AFP and U.S. Armed Forces directed at the Abu Sayyaf in Basilan. About a week before the mission, a high-profile “International Peace Mission” made its way to Basilan to look into alleged human rights violations arising from the joint military exercises. There was some concern too that these exercises would run into the MILF in Basilan and from thereon spill over into the main base of the MILF in Central Mindanao. This was also a time of media and intelligence reports about the MILF’s alleged links to those in the U.S. list of “terrorist organizations” like Al-Qaeda, Jemaah Islamiyah, Abu Sayyaf, Pentagon kidnap gang, and NPA. All these appear to have been **factors which worked against the full mission proceeding to Mindanao.**

Thus, the **main shortcoming of the mission was not being able to conduct site verification** because of the adjustments in the shape of the visit as explained in an earlier part of this report. But the mission showed *it can be done* had security arrangements for field visits been granted by the DND-AFP. And *it can still be done*, with the cooperation of both the DND-AFP and MILF to ensure security, *in order to complete the procedure* of this new international mechanism. This is important as this will help in firmly

establishing a process and lay down a precedence for verification which could be used elsewhere. The mission, therefore, **recommends a follow-up field visit at a conducive time for site verification as well as the next steps as outlined above.**

It behooves upon **impartial humanitarian organizations** to conduct missions such as this, and it behooves upon governments to understand the role of the former. The case of the ICRC is the best example. Under the above-mentioned **common article 3 of the 1949 Geneva Conventions**, to which the Philippines is a party since 1952, “An impartial humanitarian body, *such as* the International Committee of the Red Cross, may offer its services to the Parties to the conflict.” IHL expert Hans -Peter Gasser, long-time editor of the *International Review of the Red Cross*, has written that “The activities of the ICRC have no effect on the legal status of the insurgents, and, in particular, the presence of ICRC delegates does not internationalize the conflict.” **It is about time that the phantom menace of “status of belligerency,” an obsolete concept in international law, be laid to rest in Philippine discourse.**

The **1996 Mines Protocol to the 1980 Weapons Convention**, to which the Philippines is also a party, contains provisions for the protection of and access by not only United Nations System and ICRC missions but also “other humanitarian missions and missions of enquiry,” specifically “**any mission of an impartial humanitarian organization** including any impartial humanitarian demining mission... **when they are performing functions in the area of conflict** or to assist the victims of a conflict.” The **1997 Ottawa Treaty does not have similar provisions for humanitarian missions, and this should be the subject of an amendment proposal for its first review conference in 2004, as with other progressive developments indicated above like an effect-oriented definition of APMs, a definition of “command detonation,” the specific inclusion of improvised landmines or improvised explosive devices (IEDs), and the specific application to non-international armed conflicts and the parties thereto. The matter of improvised landmines or IEDs also raises the question of technical standards** for these weapons which would conceivably be different from those for factory-manufactured weapons.

To the extent that the new international mechanism under Geneva Call is able to establish its viability for armed/rebel groups to adhere to and become accountable for humanitarian norms, then perhaps the time will come for an international legal instrument similar to the **1987 European Convention for the Prevention of Torture and Other Inhuman and Degrading Treatment or Punishment (ECPT) which institutionalizes a visit mechanism and an expert Committee for the Prevention of Torture (CPT)**. The ECPT authorizes the CPT to visit any of the member States and to enter and examine any place where people are deprived of their liberty by a public authority to strengthen the protection of detained persons against torture. **An analogous arrangement for institutionalization or recognition of the new international mechanism like that under Geneva Call will go a long way in facilitating field visits such as that envisioned by this mission.**

Finally, we thank all who made this mission possible, successful and to some extent enjoyable. (Specific acknowledgments are made below.)

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TABLE OF APPENDICES

Technical Report

Photographs

Old Deed of Commitment

New Deed of Commitment

Vicinity Map of the Southern Philippines Zone of Peace & Development
(showing its then 13 provinces)

Map of Maguindanao Province
(showing Cotabato City & 17 municipalities)

Matrix of Landmining Incidents & Landmines Recovered in 2001
(with cover letter of BGen. Efren L. Abu, J3, AFP)

Common Article 3 to the 1949 Geneva Conventions

Structure of the Implementing Mechanism under the Implementing
Guidelines on the Security Aspect of the Tripoli Agreement of
2001

Working Paper for the GRP-MILF Joint Mine Clearance as a Measure for
Rehabilitation and Confidence-Building (18 September 2001)

MILF Central Committee Resolution of 26 February 2002 to Reiterate MILF
Policy of Strongly and Continuously Condemning All Kidnap-For-
Ransom Activities
(with cover letter dated 7 March 2002)

Profiles of the Members of the Geneva Call Mindanao Mission