



# The Impact of Armed Non-State Actors on the Mine Ban Treaty

## Research and Analysis by Geneva Call

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### 1. Introduction

Victim-activated landmines will maim and kill irrespective of the hand that lays them and incognizant of the party, military or civilian, that causes them to detonate. Acknowledging these facts, a growing number of States has become party to the 1997 *Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction* (henceforth referred to as the Mine Ban Treaty or MBT). The MBT requires signatories to ban landmines from their territories and to alleviate the impact that existing mines can have on their population.

The MBT overlooks the fact that most contemporary conflicts also involve armed groups, rebel movements and governments of entities, which are not (or not widely) recognized as States (referred to collectively here as armed non-State actors (NSA)). Because they do not participate in the drafting of international treaties, NSAs might not feel bound by the provisions that they contain. In the case of the MBT therefore, NSAs may continue to use, produce, acquire, transfer and stockpile mines despite efforts by the government of the country in which the NSA operates, to adhere to and implement the obligations of the treaty. For this reason, seeking to eliminate mine use by States without also stopping use by NSAs addresses only one source of the mine problem. This was the rationale for launching of the non-governmental organisation (NGO) Geneva Call shortly after the entry into force of the MBT: engaging NSAs in the anti-personnel (AP) mine ban and in other mine action activities.<sup>1</sup>

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<sup>1</sup> Geneva Call is an international humanitarian organisation dedicated to engaging armed non-State actors (NSAs) to respect and to adhere to humanitarian norms, starting with the ban on AP mines. Geneva Call is committed to the universal application of the principles of international humanitarian law and conducts its activities based on the principles of neutrality, impartiality and independence.

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This report assesses the impact of the presence of NSAs, NSA actual or potential mine use on the implementation and universalization of the MBT. It looks first at the Article 7 Reports of States Parties for information on how the existence of NSAs on its territory may affect a State Party's ability to meet its MBT commitments. This is followed by an analysis of how the same circumstances might influence a non-signatory State's decision to remain outside the total ban. To conclude, this evidence is considered in light of the advantages of promoting adherence to the norms of a universal mine ban amongst NSAs through, for instance, the Geneva Call Deed of Commitment.<sup>2</sup>

## **2. Methodology**

To treat the matter of what impact NSAs have on the MBT, this report focuses analysis on States in which NSAs are known or suspected to use, or have used landmines or IEDs between January 2003 and June 2006. Geneva Call's 2005 report entitled, *Armed Non-State Actors and Landmines Volume I: A Global Report Profiling NSAs and Their Use, Acquisition, Production, Transfer and Stockpiling of Landmines*,<sup>3</sup> is the core source from which this information is drawn. **Data on incidences and allegations of mine or IED use by NSAs occurring after the end of the reporting period of this report (June 2005) are drawn from the *Landmine Monitor 2006*.**<sup>4</sup>

The MBT obliges a signatory State Party to put an end to the suffering and casualties caused by anti-personnel mines.<sup>5</sup> Fundamentally, this demands a complete cessation of their anti-personnel mine use, a ban on developing, producing, stockpiling or transferring these weapons as well as on assisting, encouraging or inducing anyone to engage in prohibited activities. In addition, the State Party must undertake to destroy, or ensure the destruction, of all anti-personnel landmines on its territory.<sup>6</sup>

Under Article 7 of the MBT, States Parties are required to submit an annual report on steps that they have taken to meet these obligations. The deadline for these reports is 30 April each year, although several for 2006, and some for past years, are late.<sup>7</sup>

This paper takes the most recent Article 7 Reports of the States Parties believed to contain mine-using NSAs, and examines them for evidence that this use somehow affects States' capacities to meet their MBT obligations.<sup>8</sup> The main evidence considered is explicit, such as when a State makes an unambiguous comment on the impact of an NSA on its fulfilment of the treaty, but other less clear references are also noted. However, when a State Party has been reported to be affected by the presence of mine-laying NSAs in the period covered by this analysis, but does not refer to this in its Article 7 Report, possible explanations for the omission are suggested.

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<sup>2</sup> Under the Deed of Commitment, signatory NSAs commit themselves: to a total prohibition on the use, production, acquisition, transfer and stockpiling of AP mines and other victim-activated explosive devices, under any circumstances; to undertake, to cooperate in, or to facilitate, programs to destroy stockpiles, clear mines, provide assistance to victims and promote awareness; to allow and to cooperate in the monitoring and verification of their commitments by Geneva Call; to issue the necessary orders to commanders and to the rank and file for the implementation and enforcement of their commitments; and, to treat their commitment as one step or part of a broader commitment in principle to the ideal of humanitarian norms.

<sup>3</sup> **"Armed Non-State Actors and Landmines Volume I: A Global Report Profiling NSAs and Their Use, Acquisition, Production, Transfer and Stockpiling of Landmines"**, (Geneva Call, Geneva, 2005)

<sup>4</sup> Landmine Monitor Report 2006 (International Campaign to Ban Landmines, 2006)

<sup>5</sup> The MBT currently has 154 signatories, of which three have not yet ratified. There are forty States that have neither signed nor ratified the treaty.

<sup>6</sup> Art. 1, "General Obligations", 1997 Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction (Mine Ban Treaty)

<sup>7</sup> The International Campaign to Ban Landmines (ICBL) is however, lobbying States to ensure that these reports are submitted.

<sup>8</sup> All of the Article 7 Reports analysed in this paper may be found at: <http://disarmament.un.org/MineBan.nsf>

For the remainder of States under consideration, but which have not yet signed the MBT, *The Landmine Monitor Report* is used together with the foregoing work of Geneva Call to assess what impact, if any, NSAs may have on their decision not to accede to the MBT.

### 3. Findings

#### **NSA Impact on States Parties' Implementation of the MBT**

A number of States Parties have expressed difficulties in the implementation of the obligations of the MBT in their Article 7 reports. In some cases, this appears linked to the presence and mine use or presence alone of NSAs on their territory. These cases are as follows:

#### **Algeria**

The latest Article 7 Report for the Algerian Republic was submitted in April 2006.<sup>9</sup> It cites zones mined by armed groups with improvised explosive devices (IEDs) as one source of the mine problem in the country,<sup>10</sup> but does not specify which NSA is responsible.

#### **Colombia**

Colombia presented its latest Article 7 Report in April 2006.<sup>11</sup> It reports that it is the only country in Latin America in which AP landmines are still being laid.<sup>12</sup> This use is attributed to NSAs (referred to in the report as illegal armed groups, or “Grupos Armados al Margen de la Ley”), which employ IEDs.<sup>13</sup> Colombia explains that it faces a number of problems in meeting the obligations of the MBT that arise as a result.

Firstly, NSA mines are hard to locate. Indeed, the government is not able to maintain clear records of where these mines are, not least because the NSAs sometimes relocate the weapons as part of their combat tactics.<sup>14</sup> In addition, there is no precise information available on the number or composition of the mines.<sup>15</sup> Secondly, the report asserts that the mines are hard to remove; NSA minefields are generally sewn with IEDs,<sup>16</sup> which are produced at low cost but which require significant economic and human resources to deactivate.<sup>17</sup> Finally, the report underlines that it is very difficult for the State to guarantee that NSAs do not lay new IEDs.<sup>18</sup>

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<sup>9</sup> Algeria Article 7 Report 2006 (reporting period not specified)

<sup>10</sup> “Les zones minées par les groupes terroristes se situent essentiellement dans le nord du pays. Les mines employées par les groupes terroristes sont de fabrication artisanale”, LOCALISATION DES ZONES MINEES, 3.2 – Zones minées par les groupes terroristes; Alegria Article 7 Report, p 3

<sup>11</sup> Colombia Article 7 Report 2006, (reporting period not specified)

<sup>12</sup> “Es el único país de América Latina en donde aún se siembran Minas Antipersonal...Mientras en el mundo la tendencia del promedio de victimas se disminuyó, en Colombia aumentó de manera alarmante.” SITUACION ACTUAL, Colombia Article 7 Report, p4

<sup>13</sup> “Es importante señalar que en estos momentos la problemática de las minas antipersonal en Colombia es generado por los Grupos Armados el Margen de la Ley quienes día a día siembran estos artefactos producidos por ellos mismos de manera artesanal.” Características técnicas de cada tipo de mina antipersonal producida, o que pertenezca a un Estado Parte o que éste posea, Colombia Article 7 Report, p91

<sup>14</sup> “En el Estado Colombiano se siembran día a día minas antipersonal por parte de los grupos armados al margen de la ley, en el marco del conflicto armado, lo cual dificulta el cumplimiento de los compromisos asumidos y la realización de un proceso de desminado planificado al no existir certeza sobre la ubicación de estos artefactos, los cuales pueden ser incluso removidos de sus lugares y reinstalados en otros territorios como estrategia de combate de estos grupos.” DESMINADO HUMANITARIO, Colombia Article 7 Report, p56

<sup>15</sup> “La mayor dificultad tiene que ver con que las minas antipersonal siguen siendo utilizadas en el país como forma de protección de los corredores estratégicos y campamentos de grupos al margen de la Ley. No hay informaciones sobre el número o composición de minas antipersonal sembradas o almacenadas por estos grupos armados.” Información complementaria Colombia Article 7 Report, p52

<sup>16</sup> “Existen... campos minados sembrados con minas antipersonal de fabricación artesanal que han sido sembrados por parte de los grupos armados ilegales” Colombia Article 7 Report p49

<sup>17</sup> “Los campos minados por los grupos armados ilegales no tienen ningún patrón, las minas son de fabricación artesanal, producidas a muy bajo costo y su desactivación implica un esfuerzo económico y humano de gran magnitud.” ATENCIÓN INTEGRAL A VICTÍMAS DE MINAS ANTIPERSONAL Y MUNICIONED ABANDONADAS SIN EXPLOTAR : Principales avances, Colombia Article 7 Report, p48

<sup>18</sup> “Es muy difícil para el Estado garantizar que los grupos armados al margen de la ley, dejen de sembrar minas artesanales.” Información complementaria, Colombia Article 7 Report, p53

Moreover, it clearly indicates that armed groups make it difficult for Colombia to fulfil the obligations of the MBT, particularly those under Article 5 that require each State Party to destroy or ensure the destruction of all AP mines in mined areas under its jurisdiction or control.<sup>19</sup>

### **Democratic Republic of the Congo (DRC)**

The DRC made its latest Article 7 Report on 2 May 2006 for the period 1 January to 31 December 2005.<sup>20</sup> There was little progress in implementing the MBT in this time period. This inactivity is linked in the report to the politico-military context of the DRC, characterised by a transition government made up of groups that were formerly in conflict, as well as the process of building a new army consisting of the past military wings of these components.<sup>21</sup> The Article 7 Report mentions no new landmine use by NSAs in the period of time that it covers. Some mine stocks have been surrendered to the government by militias however, which term may include NSAs who are to be either integrated into the new armed forces, or demobilised.<sup>22</sup>

### **Sudan**

Sudan submitted its Article 7 Report for the period 1 May to 31 December 2005 on 17 February 2006.<sup>23</sup> The landmine problem in this country stems from “an internal conflict that has lasted for over two decades”,<sup>24</sup> between the Sudanese State and the Sudan People’s Liberation Movement/Army (SPLM/A).<sup>25</sup> The report asserts that the end of this conflict also “ended the primary source of the Sudan’s landmine problem.”<sup>26</sup> In fact, the foundations for this were put into place in 2001, when the SPLM/A unilaterally banned landmines by signing Geneva Call’s Deed of Commitment, opening the way for the government to follow suit. Nevertheless, a lack of information on the extent of the landmine problem in Sudan has made mine action efforts in the country somewhat ad hoc.<sup>27</sup> There have been no serious allegations of mine use in Sudan since 2004.<sup>28</sup>

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<sup>19</sup> Art. 5 (1): “Each State Party undertakes to destroy or ensure the destruction of all anti-personnel mines in mined areas under its jurisdiction or control, as soon as possible but not later than ten years after the entry into force of this Convention for that State Party.”

<sup>20</sup> Democratic Republic of Congo Article 7 Report, 1 January – 31 December 2005

<sup>21</sup> “Pas de progrès notable enregistré depuis le dernier rapport, bien que le pays soit résolument engagé dans la mise en application de la convention. Cela tient essentiellement au contexte politico-militaire que connaît le pays et qui est caractérisé par un gouvernement de transition mis en place après les accords de paix, regroupant plusieurs composantes politiques qui étaient en conflit, mais aussi et surtout processus de réunification des Forces Armées issues de ces composantes.” Formule J Autres questions pertinentes DRC Article 7 Report

<sup>22</sup> For examples, please see : Formule F and Formule G. Mines antipersonnel détruites après l’entrée en vigueur de la Convention, DRC Article 7 Report

<sup>23</sup> Sudan Article 7 Report, 1 May – 31 December 2006

<sup>24</sup> “The background to the country’s landmine problem stemmed from an internal conflict that has lasted for over two decades”, Form A. National Implementation Measures, Sudan Article 7 Report, p5

<sup>25</sup> Ibid.

<sup>26</sup> Ibid.

<sup>27</sup> “As no nationwide assessment/survey has been conducted in Sudan, the full extent of the landmine problem in the country remains unknown. The information provided below is derived from ad hoc assessments carried out in various parts of the country.” Form C. Location of mine areas, Sudan Article 7 Report, p6

<sup>28</sup> “Sudan” Landmine Monitor 2006, p654

## Turkey

The date of submission of Turkey's Article 7 Report was 30 April 2006, and it covers the time period between 1 January and 31 December 2005.<sup>29</sup> It explains that landmines placed by the "PKK/KADEK/KONGRA-GEL" are hard to mark and clear because their positions are not precisely known.<sup>30</sup> In addition, the report claims that explosions of landmines laid by this same organisation caused a total of 39 deaths and 155 other casualties among military personnel in the reporting period.<sup>31</sup> The report does not mention what kinds of landmine (AP mines, anti-vehicle (AV) mines or command-detonated) have been involved in these incidents, or when they were laid.

## Uganda

The latest report was submitted on 21 October 2005, and spans the period September 2004 to September 2005.<sup>32</sup> It cites landmines, of an unidentified kind, laid in an ad hoc fashion by Allied Democratic Forces rebels as a source of suspected mine contamination on the Mountain Rwenzori Slopes.<sup>33</sup>

## States Parties not Mentioning Mine Use by NSAs

Several NSAs are believed to deploy, or have deployed, factory-made and improvised mines on the territory of States Parties to the MBT which make no mention of this in their most recent Article 7 Reports

### Afghanistan

Afghanistan's latest Article 7 Report was presented on 30 April 2006, making no direct mention of landmine use by insurgents in the country.<sup>34</sup> Geneva Call notes allegations of use of remote-controlled mines, as well as unconfirmed reports of the planting of booby traps in 2003, by the Taliban.<sup>35</sup> The Landmine Monitor 2006 adds that attacks with explosive devices by the Taliban and other insurgent groups have generally involved IEDs and remotely detonated AV mines.<sup>36</sup> From this, it is not possible to deduce in a clear manner, whether there are allegations of mine use contrary to the MBT.

### Burundi

Presented at the end of April 2006, Burundi's report does not highlight current mine use by NSAs on its territory.<sup>37</sup> Even so, Geneva Call documents alleged victim-activated IED use by the Party for the Liberation of the Hutu People-National Liberation Forces (Palipehutu-FNL),<sup>38</sup> and the Landmine Monitor 2006 cites allegations of ongoing mine use in Bujumbura Rurale province where this group operates.<sup>39</sup> Although this information correlates with that presented in the Article 7 Report, which refers to Bujumbura Rurale as one of the most mine-affected provinces in Burundi,<sup>40</sup> the lack of specific allegations of mine use against the Palipethutu-

<sup>29</sup> [Turkey Article 7 Report, 1 January and 31 December 2005](#)

<sup>30</sup> "Local populations living in the vicinity of mined areas are warned of the existence of mines also [in addition to fencing and marking] through the offices of 'muhtar' (elected head of a village or of a neighbourhood within a town), and other efforts are made to increase mine awareness. Nevertheless, due to the fact that locations of mines employed by the terrorist organisation the 'PKK/KADEK/KONGRA-GEL' are not precisely known, such mines are being secured and cleaned as detected", Form I. Measures to provide warning to the population, [Turkey Article 7 Report](#), p11

<sup>31</sup> Form J. Other relevant matters, [Turkey Article 7 Report](#), p12

<sup>32</sup> [Uganda Article 7 Report September 2004 to September 2005](#). Geneva Call notes allegations of AP and AV mines by the Lord's Resistance Army (LRA) ([Armed Non-State Actors and Landmines Volume I](#), p60). The Landmine Monitor 2006 however, explains that there have been no confirmed reports of use in 2005 or early 2006 ("Uganda", [Landmine Monitor 2006](#), p747)

<sup>33</sup> "They [the mines] were planted by the ADF rebels adhocally", Form C. Location of mined areas, [Uganda Article 7 Report](#), p4

<sup>34</sup> [Afghanistan Article 7 Report, 1 January 2005 to 31 December 2005](#)

<sup>35</sup> "Afghanistan", [Armed Non-State Actors and Landmines Volume I](#), p66

<sup>36</sup> "Afghanistan", [Landmine Monitor 2006](#), p93

<sup>37</sup> [Burundi Article 7 Report 1 May 2005 – 30 April 2006](#)

<sup>38</sup> "Burundi", [Armed Non-State Actors and Landmines Volume I](#), p42

<sup>39</sup> "Burundi", [Landmine Monitor 2006](#), p234

<sup>40</sup> Formule C Localisation des zones minées, [Burundi Article 7 Report](#), p7

FNL makes it difficult to determine the precise impact of the NSA on Burundi's capacity to meet its MBT obligations.<sup>41</sup>

## Eritrea

Eritrea's latest report was submitted on 15 September 2005.<sup>42</sup> It asserts that all minefields in the country have their origins in the "latest conflict", which ended with a peace deal with Ethiopia in June 2000.<sup>43</sup> The Eritrean Islamic Jihad Movement/Islamic Salvation Movement (EIJM) is a self-declared mine user, having claimed responsibility for a number of attacks.<sup>44</sup> Eritrea's Article 7 Report does not mention this, but the omission could be due to the prevalence of AV mines in EIJM attacks (a weapon which is not included in the MBT and therefore not subject to Article 7 reporting).<sup>45</sup>

## Macedonia

The Albanian National Army (ANA) is believed to have used landmines on Macedonian territory, even claiming responsibility for a number of incidents in 2003.<sup>46</sup> Although this period is covered by the country's last substantial Article 7 Report,<sup>47</sup> no mention of the ANA or its mine use is made. Equally, there is no reference in Macedonia's most recent submission.<sup>48</sup> As in the example of Eritrea, one possible explanation for this is that the majority of mine incidents that have been directly linked to the ANA have involved AV mines.<sup>49</sup>

## Peru

There have been allegations of sporadic IED use by NSAs in Peru. Geneva Call's report mentions unconfirmed allegations of victim-activated explosive device use in 2003 by the Shining Path (Sendero Luminoso).<sup>50</sup> The Landmine Monitor 2006, refers to a media report in which "assailants" apparently used a landmine of an unidentified kind to attack a police patrol in the Peruvian jungle municipality of Juanjui in July 2005; the attack was blamed on the Shining Path by the National Police chief.<sup>51</sup> The Article 7 Report submitted on 1 May 2006 does not declare any incidents of this kind.<sup>52</sup>

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41 At the time of writing, a new ceasefire agreement between the FNL and the Government of Burundi had just come into effect

42 Eritrea Article 7 Report 1 September 2004 – 30 April 2005

43 "Eritrea does not possess any stockpiled mines. All mines possessed were laid in minefields during the latest conflict", Eritrea Article 7 Report, p3

44 Armed Non-State Actors and Landmines Volume I, p49

45 Landmine Monitor 2006 reports that similar attacks have taken place each year since 2003, without specifying possible perpetrators ("Eritrea", Landmine Monitor 2006 p412).

46 "Macedonia", Armed Non-State Actors and Landmines Volume I, p117

47 Macedonia Article 7 Report 15 April 2003 – 15 April 2004

48 Macedonia Cover Page of the Annual Article 7 Report, 1 January – 31 December 2005 (used as a substitute for submitting a detailed form because all of the information is the same as that submitted in past reports)

49 "It seems that the ANA uses AV mines, and possibly also AV mines", "Macedonia", Armed Non-State Actors and Landmines Volume I, p117

50 "Peru", Armed Non-State Actors and Landmines Volume I, p134

51 "'Assailants kill judge, police officer in Perú," EFE (Lima), 24 July 2005. In one report the landmine was described as an antipersonnel mine." "Peru", Landmine Monitor 2006, p588

52 Peru Article 7 Report March 2005 to March 2006

## Philippines

There is no direct reference made to the activities of armed NSAs on the territory of the Philippines in its Article 7 Report, presented in May 2005.<sup>53</sup> However, it does explain that the Government of the Philippines has sent detachments of explosive experts nationwide in order to sensitise soldiers and the general populace to “the threat of improvised explosive devices/mines”.<sup>54</sup> Geneva Call has recorded unconfirmed allegations<sup>55</sup> that the Moro Islamic Liberation Front (MILF), the Abu Sayyaf Group (ASG) and the Communist Party of the Philippines/ New People’s Army/ National Democratic Front of the Philippines (CPP/NPA/NDFP) have used IEDs, however this could also allude to other unexploded remnants of war. The allegations against ASG were substantiated unlike those made against the MILF and the CPP/NPA/NDFP. The CPP/NPA/NDFP has however, confirmed that it uses improvised mines, but that these are only command-detonated devices for targeting vehicles.<sup>56</sup> Another group, the Moro National Liberation Front (MNLF), reportedly only produces and uses AV mines.<sup>57</sup>

## Senegal

The latest report, submitted 8 May 2006, does not make any direct reference to NSAs operating in Senegal.<sup>58</sup> However, there has been an urgent mine impact survey carried out in Casamance, with a number of “suspected” mined zones identified.<sup>59</sup> In total, 149 such zones were pinpointed in 93 localities in the administrative regions of Ziguinchor and Kolda.<sup>60</sup> It is uncertain if the Front Sud, a faction of the military wing of the Movement of the Democratic Forces of Casamance (MFDC) is still deploying landmines but it is possible that some of the current contamination in the region stems from past mine use by this and other factions of the MFDC.<sup>61</sup>

## Thailand

Thailand does not remark the suspected use of IEDs by insurgents in the South of the country in its Article 7 Report handed in on 25 April 2006.<sup>62</sup> Even so, several groups, mostly of Malay origin, are reported to have used command-detonated IEDs and possibly also victim-activated devices.<sup>63</sup>

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<sup>53</sup> [Philippines Article 7 Report 15 February 2004 – 15 February 2005](#)

<sup>54</sup> “The AFP has deployed seven (7) detachments of explosive experts nationwide that have played an instrumental role in educating as well as protecting civilians and soldiers alike from the threat of improvised explosive devices/mines”, Form I. Measures to provide warning to the population, [Philippines Article 7 Report](#), p10

<sup>55</sup> “Philippines”, [Armed Non-State Actors and Landmines Volume I](#), pp 97 – 103

<sup>56</sup> “Philippines”, [Armed Non-State Actors and Landmines Volume I](#), p101.

<sup>57</sup> “Philippines”, [Landmine Monitor 2006](#), p604

<sup>58</sup> [Senegal Article 7 Report 1 January – 31 December 2005](#)

<sup>59</sup> “Une étude d’urgence sur l’impact des mines en Casamance...a été mené avec HI (Département Mines) entre octobre 2005 et avril 2006.” Formulaire C. Localisation des zones minées, [Senegal Article 7 Report](#), p4

<sup>60</sup> “149 zones suspectes ont été identifiées dans 93 localités des régions administratives de Ziguinchor et Kolda.” Formulaire C. Localisation des zones minées, 2. Zones où la présence de mines est soupçonnée, [Senegal Article 7 Report](#), p5

<sup>61</sup> “Senegal”, [Armed Non-State Actors and Landmines Volume I](#), p51. The Landmine Monitor did not record AP mine use by the MFDC from 2002 through 2005. Nevertheless, an incident was noted in March 2006 whereby a faction of the MFDC led by Salif Sadio reportedly used AP and AV mines against the armed forces of Guinea-Bissau (“Senegal”, [Landmine Monitor 2006](#), p622)

<sup>62</sup> [Thailand Article 7 Report. 1 January to 31 December 2005](#)

<sup>63</sup> “Fact Box: Insurgency in Southern Thailand”, [Armed Non-State Actors and Landmines Volume I](#), p104

## NSAs in Non-Signatory States

Of the States that are not party to the MBT, several have experienced mine use by NSAs on their national territory between 2003 and mid-2006.

### Burma (Myanmar)

According to Geneva Call's report, government forces and at least fifteen armed NSAs are confirmed or alleged mine users.<sup>64</sup> The ruling State Peace and Development Council (SPDC) has suggested that landmines are part of its "self-defence".<sup>65</sup> Similarly, members of some NSAs have reportedly said that they use mines as a means of self-defence against the greater military power of the national authorities.<sup>66</sup>

### Georgia

Disagreement over the status of Abkhazia and South Ossetia (Samachablo) has led both entities – which are not (or not widely) recognised as States - into conflict with Georgia. Although these are currently "frozen conflicts" which can be described as "no peace, no war" situations, the Landmine Monitor 2006 cites Georgian officials as saying that one of the main reasons why Georgia has not joined the MBT is that Tbilisi lacks jurisdiction over mined areas in the two regions.<sup>67</sup>

### India

The use of factory-made and improvised landmines by a variety of NSAs is widespread across India. Nevertheless, the government affirms that it "India has never resorted to the use of mines for maintenance of internal order or in counterterrorism operations, notwithstanding the gravest security challenges posed by non-State actors", and that its deployment of landmines has been restricted to defence of its border regions in international disputes, such as that with Pakistan, through mine fields properly marked and fenced.<sup>68</sup> Thus, India does not see the mine use of NSAs as a reason to abstain from the MBT, but rather finds the weapons tactically indispensable in an international conflict with neighbouring countries.

### Indonesia

Indonesia has not yet ratified the MBT, which it signed on 4 December 1997. However, judging from available information, this is not due to the existence of the Aceh Sumatra National Liberation Front/Free Aceh Movement (ASNLG/GAM) – a former self-declared user of command-detonated improvised mines – with which a peace agreement has been in force since August 2005, and which disarmed in December of that year.<sup>69</sup>

### Iraq

Geneva Call reports attacks by insurgents against coalition and Iraqi forces that have involved remote-controlled and command-wired devices, as well as some using vehicle-triggered mines and booby-traps.<sup>70</sup> The Landmine Monitor also describes incidences of IED use, including both command and victim activated devices.<sup>71</sup> In spite of this use, the Iraqi government has indicated that it is favourably disposed towards the MBT and that it is studying the issue of accession.<sup>72</sup>

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<sup>64</sup> "Burma", *Armed Non-State Actors and Landmines Volume I*, pp 68

<sup>65</sup> "Burma/ Myanmar", *Landmine Monitor 2006*, p856

<sup>66</sup> "Burma/ Myanmar", *Landmine Monitor 2006*, p859

<sup>67</sup> The Landmine Monitor quotes one official from the Ministry of Defence as saying in 2002 that: "Over the years one of the principle reasons for not [accessing] to the convention has been the existence of the territories uncontrolled by central authorities of the state" "Georgia", *Landmine Monitor 2006*, p889

<sup>68</sup> "India", *Landmine Monitor Report 2006*, p898

<sup>69</sup> The Landmine Monitor explains, "Indonesia has long said that the only obstacles to ratification have been the difficult circumstances in the country and other more urgent priorities." "Indonesia", *Landmine Monitor 2006*, p820

<sup>70</sup> "Fact Box: Iraqi Insurgents", *Armed Non-State Actors and Landmines Volume I*, p143

<sup>71</sup> "Iraq", *Landmine Monitor Report 2006*, p921

<sup>72</sup> "Iraq", *Landmine Monitor 2006*, p918



## **Israel**

The government of Israel has officially tied its non-accession to the landmine ban, to its conflict with NSAs. Indeed, possible “defensive operations against terrorists” has been emphasised by Israeli officials as a principal reason for Israel not commit itself to a “Total-Ban”.<sup>73</sup>

## **Lebanon**

Lebanon has not committed to the landmine ban, stating its conflict with Israel as a main justification.<sup>74</sup> The impact of the recent conflict between Israel and Hezbollah in Lebanon on the government’s position on the MBT is as yet unknown.

## **Morocco**

Its continuing territorial dispute concerning the Western Sahara – the sovereignty of which is in dispute between the government of Morocco and the Polisario Front – is cited by Morocco as the main factor preventing its accession to the MBT.<sup>75</sup> Indeed, it has linked this issue to questions of its “territorial integrity” and “national security”, but is optimistic that a “mutually acceptable political solution” would remove this impediment.<sup>76</sup> In light of the fact that the Polisario Front has signed Geneva Call’s Deed of Commitment and has begun to destroy its stockpile, the reference to the territorial dispute presumably does not reflect mine use by the Polisario.

## **Nepal**

The civil war in Nepal between the government and the Communist Party of Nepal-Maoist (CPN/M), witnessed the use of different types of factory-made and improvised landmines. Prior to the recent ceasefire, Nepalese security forces were reported as having used landmines for “defensive purposes”.<sup>77</sup> Nevertheless, a 2005 UN report indicated, “the majority of [mine] casualties are due to an extensive use by the CPN/M of improvised explosive devices” which are generally used as grenades (so-called socket bombs) or command-detonated AV mines.<sup>78</sup> In the past therefore, it is possible that the presence of NSAs in Nepal may have contributed to the government’s decision not to join the MBT, due to the weapon’s role in the tactics of the security forces. If this is the case, it remains to be seen what impact a sustained ceasefire would have on government policy towards the MBT.

## **Pakistan**

There are numerous mine-laying NSAs in Pakistan, with two areas, Baluchistan and the Federal Administrative Tribal Areas [FATA]/Waziristan, being particularly known for IED use and mine.<sup>79</sup> Although Pakistan asserts that AP mines are necessary for its national defence and dismisses joining the MBT until an alternative weapon is developed,<sup>80</sup> Landmine Monitor 2006 could find no evidence of AP mine use by Pakistani armed forces in 2005 or 2006.<sup>81</sup> There is therefore no apparent link between NSA mine use and the reluctance to join the MBT.

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73 “Israel”, *Landmine Monitor Report 2006*, p948

74 “Lebanon”, *Landmine Monitor Report 2006*, p987

75 “Morocco”, *Landmine Monitor Report 2006*, p1015

76 Ibid.

77 “Nepal”, *Landmine Monitor Report 2006*, p1023

78 “Nepal”, *Landmine Monitor Report 2005*, p830

79 “Baluchistan and FATA/Waziristan, Pakistan”, *Armed Non-State Actors and Landmines Volume I*, p103

80 “Pakistan”, *Landmine Monitor Report 2006*, p1039

81 “Pakistan”, *Landmine Monitor Report 2006*, p1040

## Russian Federation

The Russian Federation has expressed its unwillingness to accede to the MBT in part in terms of the military utility of the weapon. Russia continues to use AP mines in Chechnya, attributing this to a need to protect “facilities of high importance”.<sup>82</sup> Chechen insurgents are also known to use of AV mines and command-detonated improvised AV mines, as well as some AP mines.<sup>83</sup> Overall, it seems that the use of AP mines by the armed forces, not by the NSAs, is one of the principle reasons behind the unwillingness to accede to the MBT.<sup>84</sup>

## Somalia

As there has been no internationally recognised central government since 1991, Somalia has been unable to accede to the MBT. Even so, 17 faction leaders, of which the majority are now members of the Transitional Federal Government (TFG), have signed the Geneva Call Deed of Commitment. In December 2004 in Nairobi, at the First Review Conference of the MBT, the TFG Prime Minister Ali Mohamed Gedi declared Somalia’s intention to accede to the treaty as soon as possible, in continuity with their signing of the Deed of Commitment by most of his fellow ministers when they were still acting as NSA faction leaders.<sup>85</sup> Nevertheless, the rise of the Islamic Courts Union in recent months has put such declarations into question, and Somalia’s future in relation to the MBT remains uncertain.

## Sri Lanka

The government has blamed the Liberation Tigers of Tamil Eelam (LTTE) for a number of command-detonated Claymore-type mine attacks since the presidential elections of November 2005.<sup>86</sup> There were also unconfirmed allegations of AP mine use by the LTTE made by the Sri Lankan Army in May 2006.<sup>87</sup> In the past, the government has made other allegations, such as in their voluntary Article 7 Report submitted in June 2005.<sup>88</sup>

Sri Lanka has explained that it will only be in a position to accede to the MBT when an agreement is reached with the LTTE on non-use.<sup>89</sup> Equally, the LTTE has said that significant progress towards peace is required before it can commit to a landmine ban.<sup>90</sup>

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82 “Russian Federation”, Landmine Monitor 2006, p1055

83 “Russia”, Armed Non-State Actors and Landmines Volume I, p119

84 Russia also cites the lack of viable alternatives to landmines and the financial difficulties of destroying its stockpiles within four years as reasons for not joining the MBT. “Russian Federation”, Landmine Monitor 2006, p1054

85 See Geneva Call Newsletter Volume 3/ N° 1, April 2005, p5

86 “Sri Lanka”, Landmine Monitor 2006, p1078

87 Ibid.

88 “Sri Lanka does not produce APMs. However..[the] LTTE, has locally-manufactured two types of APMs ...These mines have been used indiscriminately without adequate safeguards for the protection of non-combatants as required by International Humanitarian Law.” Sri Lanka Voluntary Article 7 Report,

89 “Sri Lanka”, Landmine Monitor 2006, p1076

90 Ibid.

## **4. Conclusions**

This study has presented a series of cases in which NSAs operate on the territory of States, examining in the process the impact that this may have on a State Party's capacity to meet its MBT obligations, and on a non-Party's position towards signing the treaty. Two main conclusions emerge from these results:

- If an insurgent group lays AP landmines (or IEDs with the same effect) on the territory of a State Party, then this will be to the detriment of the latter's ability to comply with the MBT commitments. It is the responsibility of the State Party to ensure that the norms of the treaty are respected, and the existence of NSAs is likely to undermine this, whether because the State can not access a mined area on territory under the de facto control of the armed group, or because NSAs continue to lay, stock and transfer mines in spite of the ban.
- NSA mine use may deter a State from signing the MBT. This may be because it wishes to retain landmines as a counter-insurgency measure, because it does not want to give up a weapon that is still available to a hostile NSA, or because it considers it unfeasible to execute MBT commitments in territory controlled by NSAs but under its jurisdiction.

In light of these points, it is appropriate to conclude that the engagement of an NSA to ban landmines and to undertake mine action, such as through the signature of Geneva Call's Deed of Commitment,<sup>91</sup> would have a positive impact on the implementation and universalization of the MBT. Within States Parties, the commitments assumed by an NSA in this way should facilitate a State Party's capacity to implement the mine ban across its whole territory in compliance with the MBT, and following the recommendations of Action #46 of the Nairobi Action Plan.<sup>92</sup> For example, if a signatory NSA pledges to destroy its own mine stockpiles and to demine the territory under its de facto control.

Similarly, where the presence of an NSA deters a non-signatory State from signing the MBT due to its reluctance to give up a weapon that is still available to the rebel group, a commitment by the latter to ban landmines could provide the State with sufficient reassurance to sign the MBT. Such an outcome was seen in Sudan. Following from this, in instances where a government and an NSA are locked in reciprocal mine use, and a unilateral renunciation of landmines does not seem possible on either side, a simultaneous commitment to ban landmines, through the Mine Ban Treaty and Geneva Call Deed of Commitment respectively, might offer means of breaking the deadlock.<sup>93</sup>

Ridding the world of landmines requires the participation and dedication by all those involved in their use. The MBT offers an avenue for States to make such a commitment, whereas Geneva Call provides one for NSAs. Both tiers must be supported and strengthened if our ultimate objective – a world free of mines – is ever to be realised.

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<sup>91</sup> A mine ban by an NSA can also be unilateral or through a bilateral agreement with the concerned government, although such declarations and agreements do not always contain provisions on engaging actively in mine action as the Deed of Commitment does.

<sup>92</sup> “[States Parties in a position to do so will]... Continue to support, as appropriate, mine action to assist affected populations in areas under the control of armed non-state actors, particularly in areas under the control of actors which have agreed to abide by the Convention's norms” Action #46, Ending the Suffering Caused by Anti-Personnel Mines: Nairobi Action Plan 2005 - 2009

<sup>93</sup> Such a possibility was recently included in the European Parliament Resolution on Sri Lanka, adopted in May 2006, which urged “ both sides [the government and LTTE], as an immediate gesture of goodwill, to cease the use of anti-personnel landmines and to assist in their removal, and considers that, to this end, the Government of Sri Lanka should set an example by signing the Ottawa Convention and the LTTE should sign the Geneva Call 'Deed of Commitment'”