

Geneva Call, Puntland State of Somalia Adhering to a Total Ban on Anti-Personnel Mines

[N.B.: Geneva Call is a neutral and impartial humanitarian organization dedicated to engaging armed non-State actors (NSAs) towards compliance with the norms of international humanitarian law (IHL) and human rights law (IHRL). To this end, Geneva Call engages NSAs into, *inter alia*, respecting the anti-personnel mine ban and cooperating with humanitarian organizations working to reduce the effects of those mines. Geneva Call thus developed the *Deed of Commitment for Adherence to a Total Ban on Anti-Personnel Mines and for Cooperation in Mine Action*. This innovative mechanism allows NSAs, which are not eligible to enter into the Ottawa Convention, to undertake to observe its norms. The Government of the Republic and Canton of Geneva is the custodian of the Deeds.

To date, 41 NSAs in Burundi, India, Iran, Iraq, Myanmar/Burma, the Philippines, Somalia, Sudan, Turkey, and Western Sahara have signed the *Deed of Commitment* banning anti-personnel mines.]

N.B. As per the disclaimer, neither the ICRC nor the authors can be identified with the opinions expressed in the Cases and Documents. Some cases even come to solutions that clearly violate IHL. They are nevertheless worthy of discussion, if only to raise a challenge to display more humanity in armed conflicts. **Similarly, in some of the texts used in the case studies, the facts may not always be proven;** nevertheless, they have been selected because they highlight interesting IHL issues and are thus published for didactic purposes.

[See also Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction]

A. Deed of Commitment

[Source: Geneva Call, “Deed of Commitment under Geneva Call for Adherence to a Total Ban on Anti-Personnel Mines and for Cooperation in Mine Action”, Puntland State of Somalia, available at <http://www.genevacall.org>]

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

I, Abdullahi Yusuf, President of Puntland State of Somalia,

Recognising the global scourge of anti-personnel mines which indiscriminately and inhumanely kill and maim combatants and civilians, mostly innocent and defenceless people, especially women and children, even after the armed conflict is over;

Realising that the limited military utility of anti-personnel mines is far outweighed by their appalling humanitarian, socio-economic and environmental consequences, including on post-conflict reconciliation and reconstruction;

Rejecting the notion that revolutionary ends or just causes justify inhumane means and methods of warfare of a nature to cause unnecessary suffering;

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

Reaffirming our determination to protect the civilian population from the effects or dangers of military actions, and to respect their rights to life, to human dignity, and to development;

Resolved to play our role not only as actors in armed conflicts but also as participants in the practice and development of legal and normative standards for such conflicts, starting with a contribution to the overall humanitarian effort to solve the global landmine problem for the sake of its victims;

Acknowledging the norm of a total ban on anti-personnel mines established by the 1997 Ottawa Treaty, which is an important step toward the total eradication of landmines;

NOW, THEREFORE, hereby solemnly commit myself and my government to the following terms:

1. TO ADHERE to a total ban on anti-personnel mines. By anti-personnel mines, we refer to those devices which effectively explode by the presence, proximity or contact of a person, including other victim-activated explosive devices and anti-vehicle mines with the same effect whether with or without anti-handling devices. By total ban, we refer to a complete prohibition on all use, development, production, acquisition, stockpiling, retention, and transfer of such mines, under any circumstances. This includes an undertaking on the destruction of all such mines.
2. TO COOPERATE IN AND UNDERTAKE stockpile destruction, mine clearance, victim assistance, mine awareness, and various other forms of mine action, especially where these programs are being implemented by independent international and national organisations.
3. TO ALLOW AND COOPERATE in the monitoring and verification of our commitment to a total ban on anti-personnel mines by Geneva Call and other independent international and national organisations associated for this purpose with Geneva Call. Such monitoring and verification include visits and inspections in all areas where anti-personnel mines may be present, and the provision of the necessary

information and reports, as may be required for such purposes in the spirit of transparency and accountability.

4. TO ISSUE the necessary orders and directives to our commanders and fighters for the implementation and enforcement of our commitment under the foregoing paragraphs, including measures for information dissemination and training, as well as disciplinary sanctions in case of non-compliance.
5. TO TREAT this commitment as one step or part of a broader commitment in principle to the ideal of humanitarian norms, particularly of international humanitarian law and human rights, and to contribute to their respect in field practice as well as to the further development of humanitarian norms for armed conflicts.
6. This Deed of Commitment shall not affect our legal status, pursuant to the relevant clause in common article 3 of the Geneva Conventions of August 12, 1949.
7. We understand that Geneva Call may publicize our compliance or non-compliance with this Deed of Commitment.
8. We see the desirability of attracting the adherence of other armed groups to this Deed of Commitment and will do our part to promote it.
9. This Deed of Commitment complements or supercedes, as the case may be, any existing unilateral declaration of ours on anti-personnel mines.
10. This Deed of Commitment shall take effect immediately upon its signing and receipt by the Government of the Republic and Canton of Geneva which receives it as the custodian of such deeds and similar unilateral declarations.

Done this 11th day of November 2002, at Eldoret, Kenya

ABDULLAHI YUSUF, PRESIDENT OF PUNTLAND

For GENEVA CALL

ELISABETH REUSSE-DECREY

President

LARE OKUNGU

Regional Director for Africa

For THE GOVERNMENT OF THE REPUBLIC AND CANTON OF GENEVA

Robert HENSLER

B. State of implementation in 2008

[Source: Geneva Call, "Somalia: Puntland authorities destroy anti-personnel mines", Press Release, 24

Somalia: Puntland authorities destroy anti-personnel mines

Geneva/Garowe, 24 July 2008

On 24 July 2008, the Puntland Mine Action Centre (PMAC), with technical support from Mines Advisory Group (MAG), destroyed 48 stockpiled antipersonnel (AP) mines near Garowe, in accordance with the Geneva Call *Deed of Commitment* [...].

Asked about the event, Mr. Yassin Ali Abdulle, Vice-Minister of Interior and Security, stressed that “Puntland is determined to destroy its AP mine stockpile in compliance with the *Deed of Commitment* and will continue to facilitate mine action to the best of its ability. We are grateful for the support provided to date in the form of landmine impact surveys and, more recently, explosive ordnance disposal (EOD). But we also hope that today’s successful operation will help mobilize resources to begin clearing areas contaminated by mines and unexploded ordnance (UXO) in order to prevent future accidents and release contaminated land for the communities to use.” According to local authorities, AP mines and other dangerous explosive items claim civilian casualties every year. [...]

The 48 PMP-71 mines destroyed in Garowe were first disclosed to Geneva Call during a field mission in November 2004. The volatile security situation in Somalia and difficulties in securing donor interest delayed their destruction. PMAC and MAG are in the process of training EOD teams and completing an inventory of mines and other explosive ordnances in Puntland’s military camps requiring urgent and safe disposal. Items scheduled for future destruction, security conditions permitting, include the BM-21 rockets and anti-vehicle mines observed by Geneva Call in a military compound in Galkayo in July 2007. [...]

C. State of implementation in 2009

[Source: Geneva Call, “Somalia: Puntland authorities and stakeholders review progress in the implementation of Geneva Call’s Deed of Commitment banning anti-personnel mines”, Press Release, 22 June 2009, available at <http://www.genevacall.org>]

Somalia: Puntland authorities and stakeholders review progress in the implementation of Geneva Call’s Deed of Commitment banning anti-personnel mines

22 June 2009 - Geneva

With the financial support of Medico International, Geneva Call and the Puntland Mine Action Centre (PMAC) convened on 9 June in Garowe, the administrative capital of Puntland, a workshop on the implementation of the Geneva Call’s “Deed of Commitment [...]”.

The workshop aimed at reviewing progress made since the signing of the *Deed of Commitment* in 2002 by the Puntland authorities and at identifying the next steps towards a mine-free Puntland. [...]

Puntland's signing of the *Deed of Commitment* has translated into significant progress in mine action. In 2003, the PMAC was established with UNDP support and subsequently implemented landmine impact surveys covering all areas of Puntland. In 2007, Handicap International launched a mine risk education project and a year later another NGO, the Mines Advisory Group (MAG), began explosive ordnance disposal work. Geneva Call facilitated the deployment of MAG in Puntland. Moreover, in compliance with the *Deed of Commitment*, the Puntland authorities have destroyed 126 stockpiled AP mines to date. However, despite this progress, further efforts are needed, particularly in mine clearance and victim assistance.

At the opening of the workshop, the newly elected President, M. Abdirahman Mohamed Mohamud (Farole), reiterated that "Puntland is committed to continue to comply with the *Deed of Commitment*" and called for support to "assist the victims by providing artificial limbs, vocational training, funding for small businesses to kick start." Elisabeth Decrey Warner, President of Geneva Call, also stressed the importance of additional external support. "Landmines and explosive remnants of war (ERW) continue to kill and maim in Puntland. Survivors do not receive enough support and mine/ERW contamination has still a serious economical impact in many districts, preventing roads or pastoral land to be used by the local communities", she said. "Additional mine action programmes are required and we hope this workshop will attract the attention of the international community on the remaining needs. Experience shows that when support is forthcoming, there can be swift progress."

Discussion

1. If the Puntland State of Somalia (Puntland) was engaged in an armed conflict when it signed the Deed of Commitment in 2002, was it then bound by IHL?
2.
 - a. Assuming that IHL applied to Puntland, had the latter an obligation not to use anti-personnel mines? Before signing the agreement, was Puntland bound by such a prohibition? Would it have been bound by the prohibition if Somalia had been party to the Ottawa Convention?
 - b. Could Puntland have become bound by the Ottawa Convention? As an auto-proclaimed autonomous region of Somalia? (CIHL, Rules 11, 12 and 14) [See also Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction, Art. 9]
 - c. Is Puntland bound by the Deed of Commitment? Did the signature of the Deed of Commitment create an international obligation for Puntland? Towards whom?
 - d. Did the Deed of Commitment have any implication for Somalia? Is Somalia, based upon the Deed, bound by the prohibition of the use of anti-personnel mines? Would the Deed of Commitment govern the conduct of hostilities between Puntland and Somalia, even if Somalia is not party to the Ottawa treaty? Does it create a unilateral obligation for Puntland towards Somalia?
3. Does the Deed of Commitment constitute an agreement between Puntland and Geneva Call? Does it constitute an agreement between Puntland and the Canton of Geneva? If so, would such agreements

- be governed by international law?
4. What does Art. 5 mean? Does it create an obligation for Puntland to respect other rules of IHL and human rights law? Could and will Geneva Call monitor the compliance with such an undertaking?
 5.
 - a. Does the Deed of Commitment provide for any enforcement mechanism? How may respect for the terms of the Deed of Commitment be monitored? Does Geneva Call bear any responsibility for supervising its implementation?
 - b. Does the Deed of Commitment provide for any reporting mechanisms? For any sanction mechanisms? What may be done if the terms of the Deed of Commitment are violated? Does Geneva Call bear any responsibility for sanctioning violations?
 6.
 - a. Did the Deed of Commitment constitute a recognition of Puntland? As a party to a conflict? As an autonomous region in Somalia? At least by Geneva Call? Did it affect the legal status of the group? Does the fact that the Canton of Geneva has signed the Deed of Commitment amount to recognition of the group by Switzerland?
 - b. Did the Deed of Commitment legitimize Puntland's cause? Did it legitimize the means and methods used by the group?
 - c. In conducting hostilities after the signing of the Deed, could Puntland have used any other weapons not prohibited by the Deed of Commitment? Does the Deed of Commitment encourage the use of violent means not prohibited by the text?
 7. Would it be possible to have similar Deeds of Commitment for other issues? Such as the ban on the use of child soldiers? Of torture? Of indiscriminate attacks? In terms of legal obligations, what are the differences for an armed group between using anti-personnel mines and using child soldiers, torture or indiscriminate attacks? What would be the implications for an armed group signing or refusing to sign a Deed of Commitment prohibiting the use of child soldiers, torture or indiscriminate attacks, in terms of criminal responsibility? Would it be possible for Geneva Call to monitor respect for Deeds of Commitment prohibiting such practices?
 8. What are the advantages and disadvantages of such a Deed of Commitment? Compared with a provision in an IHL treaty prohibiting an armed group to use anti-personnel mines? With a special agreement between Somalia and Puntland prohibiting the use of landmines? With the obligation of States Parties under Art. 9 of the Ottawa Convention to prevent, suppress and repress the use of anti-personnel mines by persons or on territories under their jurisdiction or control? [See also Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction]