ANTIPERSONNEL MINES IN COLOMBIA: ENGAGING NON-STATE ACTORS THROUGH NORM COMPLIANCE AND CONSTRUCTION

by

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Abstract

Due to Colombia's internal conflict the use of antipersonnel mines is common among the non-state actors that operate in the territory. With the Ottawa Treaty many states complied towards a ban of the use of antipersonnel mines, but the Treaty was not an instrument for non-state actors to sign. Thus, the importance of establishing the mechanisms or instruments available to engage these groups with a ban on landmines, as these weapons have killed and injured millions of innocent people around the world without choosing or differentiating their victims. As states complied with an existent norm and were taught by non-governmental organizations that the problem of landmines had to be solved this is not done as easily with non-state actors.

Through literature review, and published data analysis the main conclusion is that these groups are willing to give up their arms only when it is better for them to negotiate a peace process than to keep fighting in the conflict. If they have the military and economic power to maintain themselves at war then they are not willing to negotiate. A solution might be to arrange local processes that lead to national ones, working in conjunction with non-governmental organizations, and international ones in mine risk education programs, and mine awareness. It is essential to involve the local communities in these types of processes. Since trust and confidentiality are necessary for the parts to negotiate, social processes are needed and constructivism is able to explain how these can be achieved. Transmitting ideas, values and common beliefs to the different parts in the conflict is explained through constructivism. As one of the principles of this stream is that power and self-interest are not everything but there has to be some common values and ideas involved in such processes, where other actors, not only the states are to be taken into consideration, it is important to take ideas into account as a social construction of a process that should start when the countries are still suffering from an internal conflict.
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<tr>
<td>APM</td>
<td>Anti-personnel mine</td>
</tr>
<tr>
<td>ARNO</td>
<td>Arakan Rohingya National Organization</td>
</tr>
<tr>
<td>ELN</td>
<td>Ejército de Liberación Nacional (National Liberation Army)</td>
</tr>
<tr>
<td>FARC</td>
<td>Fuerzas Armadas Revolucionarias de Colombia (Revolutionary Forces of Colombia)</td>
</tr>
<tr>
<td>FMLN</td>
<td>Farabundo Martí para la Liberación Nacional (Farabundo Martí National Liberation)</td>
</tr>
<tr>
<td>IDPs</td>
<td>Internally Displaced Persons</td>
</tr>
<tr>
<td>IHL</td>
<td>International Humanitarian Law</td>
</tr>
<tr>
<td>MILF</td>
<td>Moro Islamic Liberation Front</td>
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<tr>
<td>NGO</td>
<td>Non-governmental Organization</td>
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<tr>
<td>NMSP</td>
<td>New Most State Party</td>
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<tr>
<td>NSA</td>
<td>Non-state Actors</td>
</tr>
<tr>
<td>NUPA</td>
<td>National Party of Arakan</td>
</tr>
<tr>
<td>OAS</td>
<td>Organization of American States</td>
</tr>
<tr>
<td>ONUSAL</td>
<td>United Nations Mission to El Salvador</td>
</tr>
<tr>
<td>PADCA</td>
<td>Programa de Atención al Desminado en Centro América (Demining Program in Central America)</td>
</tr>
<tr>
<td>SPDC</td>
<td>State Peace and Development Council</td>
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<tr>
<td>UN</td>
<td>United Nations</td>
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<tr>
<td>UNDP</td>
<td>United Nations Development Program</td>
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<tr>
<td>UNHCR</td>
<td>United Nations High Commissioner for Human Rights</td>
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Antipersonnel Mines in Colombia: Engaging Non-State Actors through Norm Compliance and Construction

Introduction

With the end of the Cold War conflict between states was no longer the main characteristic of the world order. On the other hand, intra state conflicts became a common situation for many countries in the world. El Salvador, Nicaragua, Guatemala, Burma/Myanmar, among others experienced atrocities related to internal conflict. Colombia is not the exception as this country has experienced more than 40 years of internal conflict where non-state groups operate in great part of the territory causing terror among the civil population. With these internal conflicts emerging concerns regarding Human Rights and International Humanitarian Law occupied NGOs, international organizations and national institutions. Part of the Human Rights agenda is that the use of landmines cause unnecessary pain and suffering to many civilians and members of the military forces of the different countries. Thus, the main objective of this research project is to establish the mechanisms available to engage non-state actors and evaluate if they can be used in Colombia to successfully halt the use of landmines, and determine why or why not.

Landmines have been used throughout the world as a cheap medium of war. Many non-state groups and even governments use them to protect strategic areas, terrorize civil population and delay the enemies' military operations. Colombia is not the exception since this country has been in conflict for more than 40 years. With many groups - Revolutionary Armed Forces of Colombia (FARC), National Liberation Army (ELN) and the right wing paramilitary forces - fighting over control of territory and strategic areas for transportation of goods and fertile land, the conflict has persisted over the years. Due to internal conflict, violations of Human Rights are committed every day affecting a great number of people. From attacks to towns to kidnapping, massacres, and assassinations Colombia's population has been suffering the atrocities of an internal conflict which does not seem to have a clear end in the near future.
International Humanitarian Law (IHL) is a set of "rules which seek, for humanitarian reasons, to limit the effects of armed conflict" (Advisory Service, 2002: 1). Its main goal is to stop the suffering of those affected by war and to protect those who should not be involved in armed conflict such as the civil population and the non-combatants. With the Geneva Conventions and its two additional protocols the states who are part of these Conventions agree to diminish the suffering of the vulnerable people involved in the conflict and to limit the means of war. The 1977 Protocols include not only conflicts between states but non-international conflicts as well. Therefore a recognition of the importance to manage conflicts within states is given by the international community. Even though these norms exist, it is very difficult to make states behave as stated in the different international treaties. Even more difficult is to make non-state actors behave according to these protocols and the International Humanitarian Law.

More recently, the Ottawa Treaty or the Treaty for the "Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction" is considered as part of IHL where the objective is to stop the use of landmines in the different countries affected by these weapons which do not choose their victim. The treaty was a success for various reasons which will be analyzed in a latter section of the paper. Many states have signed the Treaty in a very short period of time even though some others have not acceded to a ban on landmines yet. The International Campaign to Ban Landmines (ICBL) is making efforts to make 43 non-signatory countries of the Treaty such as China, United Sates, Cuba, North Korea, South Korea, Egypt, India, Iran, Iraq, Israel, Pakistan, among others, to comply and abide by the articles of the Ottawa Treaty in order to achieve its main goal: A Mine Free World. (ICBL, 2004).

Colombia is part of the Ottawa Treaty as the government signed the treaty on December 1997 and it was ratified on September 2000 at the UN millennium summit. INDUMIL (Industry of the Production of Military Weapons) stopped fabricating landmines in 1999 according to the various Landmine Monitor Reports. Furthermore, according to Francisco Santos, Colombia's Vice
President, the mine destruction program will end on October of 2004. Some mines will be kept only for training purposes as the Ottawa Treaty states.

But the governmental efforts are not enough and the landmine problem in Colombia trespasses the governmental boundaries. Non-state groups who use hand-made mines for their war strategy have caused great damage to the population, the territory, and the land itself. There is an estimate that about 70,000 to 100,000 landmines that have been planted in Colombia’s territory. Landmines do not aim at a direct target. Anyone can be the victim from the civilian population including men, elderly, and children to governmental military personnel. This is why landmines are referred to as indiscriminate weapons. Even if there is a solution to the conflict and the groups sign a peace agreement with the government, landmines will continue to have great consequences in the post-conflict stage. As a result something has to be done even when the conflict is still taking place. The Colombian government has started to make some efforts in approaching communities and carrying on campaigns in mine-risk education. But there have to be some ways to approach non-state actors operating in the country so that they agree on a landmine ban and stop using these weapons as a strategy of war. This way demining processes can start as soon as possible. There are some instruments and mechanisms to engage non state actors with the International Humanitarian Law and in this case the Ottawa Treaty. The main question to be answered is the following: what mechanisms are there available to engage non-state actors to stop the use of landmines as one of their strategies? How are these implemented and how are they enforced? Are the mechanisms to get non-state actors to abide by international norms different from those to gain state compliance?

The main mechanism to be analyzed is the one used by Geneva Call, an NGO working around the world with non-state actors in countries where there is still an internal conflict taking place. This organization believes that even if an internal war is affecting a country, actions should be taken for non-state actors to stop the use of landmines. Geneva Call has been successful in countries such as the Philippines and more recently in Sri Lanka where the government agreed that
if non-state actors in that country stopped using landmines the government would proceed to sign the Ottawa Treaty. This is a huge step forward in the fight against landmines and therefore some questions arise to analyze Colombia's case: Why has Geneva Call been successful in some contexts and not others? What differences and similarities are there between Colombia and the Philippines for example? How could one replicate the success of Geneva Call in some countries towards Colombia's complex situation?

Colombia's internal conflict is not easy to solve due to the amount of different groups operating in the territory. Therefore one cannot expect to solve the problem of landmines in a short period of time. Still, Geneva Call has started to work in Colombia and some progress has been made with some rebel groups. This will be analyzed in a later chapter.

This project will mainly focus on the complexity of Colombia's conflict taking other experiences into account. It will analyze the FARC and the ELN guerrillas due to their similarities in the way they operate and carry on their war strategies. It will then look at the literature of norm compliance and norm construction to understand if non-state actors should behave the same way as states. It will try to establish what instruments are helpful to make non-state groups comply with the norms or if new mechanisms should be created in order to stop the use of landmines by these groups.

Thus, the thesis will proceed as follows. The first chapter will touch deeply on the conflict in Colombia and the problem of antipersonnel mines. More specifically an overview of the conflict will be given and some data on the violation of the International Humanitarian Law and Human Rights will be underlined to understand the complexity of the conflict. In addition, it will give a synopsis of the general problem of landmines stating some important data for the reader's understanding. Chapter two will examine norm construction and norm compliance of non-state actors toward the Ottawa Treaty, if they should be treated the same way as states, and how can one replicate norms applied to states toward non-state groups. The third chapter will focus on the instruments available to make non-state actors comply with norms. The main factor will be
Geneva Call but other issues will be explained such as shaming and pointing, the media, and regional approaches to come to a peaceful solution of the conflict. Finally, the last section will establish which mechanisms can be applied more effectively in Colombia and why, and what further research is needed in order to contribute to the different NGO's, policy makers, and civil society in order to understand the problem and plan a strategy to negotiate with the armed groups to stop the use of landmines which have been causing so much pain to innocent people around the world.

In terms of method I have used data provided by different governmental agencies and NGOs. The main source is going to be the Observatory or Human Rights and Antipersonnel Mines. I also used the various reports form Colombia's Ministry of Defense, and the Landmine Monitor Report, from the International Campaign to Ban Landmines, the main source of information on the issue of landmines in the world. Lastly, to answer the more general question I looked at reports from Geneva Call, from their experience in the Philippines, and in general literature which refers to non-state actors and internal conflicts. Last but not least, I focused on the literature about the Ottawa Treaty, the negotiation and its implementation. In terms of the theoretical approach, the literature on creation of norms and norm compliance is relevant to see how one could get non-state groups to comply with different norms, replicating the model of the state and the compliance of norms between states.
Chapter I:
The conflict in Colombia and the problem of Antipersonnel Mines.

This chapter seeks to give an overview of the dynamic of the conflict in Colombia. More specifically, its main purpose is to outline the problem of landmines by giving some data so that the complexity of the problem is understood. However a general comprehension of the conflict is needed to understand the problem of landmines.

1.1 The conflict in Colombia

Colombia has had a history of conflict for more than 40 years. With many groups fighting over control of territory, many innocent people have had to suffer the cruelty of war. The FARC-Revolutionary Armed Forces of Colombia- is considered one of the oldest and strongest guerrilla groups in the world. As Alfredo Rangel states, the FARC are a “guerrilla group that in military terms has always been the most numerous and strongest one, and in social terms has counted with the peasant social bases” (Rangel, 1999: 23). The ELN-National Liberation Army is another group that bases its ideology on Marxism. The history of Colombia's conflict has gone through various phases and it has continued for different reasons through the decades.

Between 1948-1958 there was a civil war between the liberals and the conservatives who were fighting for power. This was resolved with the Frente Nacional, an agreement between the two parties to share power through the years. For one period the conservatives had the “right to power” and for the other period the liberals and so on. In the short term this was an effective policy but the minority groups which did not have access to power were not willing to give up their arms. This was not all, for “at the same time new guerrilla movements confronted the coalition governments denominated by the elites” (Chernick, 1999: 9). This caused a great division between those who had access to the political arena and those that were excluded politically and socially. This went on
as a low-intensity fight between the guerrillas and the government. It was in 1982 that violence levels started increasing due to structural causes that came from the forties and fifties. The unequal distribution of land (most of it was owned by rich landlords who used them for non-state crops), the weakness of the institutions, and the precarious state presence in many rural areas, made these groups grow stronger as the population started seeing them as the defenders of land and territory. The "multiplicity of non-state actors, diverse guerrilla units that adhere to different leaders of the nation, local party boss, landlords, each of them linked in local aspects, social conflict, and power fights" (Chernick, 10) makes it very difficult to solve such a complex conflict that comes from the forties making it hard to fight and break down the structural causes of the conflict.

On the other hand during the eighties with the increase in coca leaf plantations the groups started having a great source to finance their non-state activities. During this decade, the FARC's main objective was "to take the conflict to urban zones and increase its presence in national territory by increasing the number of Frentes-Fronts" ("El Atlas de la Guerra", 2004: 18). This was the constant pattern and in the nineties the increase in narcotics gave autonomy to the guerrilla groups and allowed these groups to acquire armaments in great quantities and of great quality ("El Atlas de la Guerra", 2004).

The action taken by the guerrillas in Colombia have a clear orientation. As Camilo Echandia states

> the actions are oriented towards the control of zones with high strategic value. These actions are expressed through the increase of violation to human rights and IHL, because non-state actors fight the conflict through populations in the middle, affecting in the same manner, men, women, children, and seniors only in virtue of the region they inhabit (Echandia, 2002: 16).

This is why Alfredo Rangel and other authors argue that Colombia is going through an irregular war. There are some factors that characterize this type of war. In the first place the modification in the guerrilla strategies for war lies in the mechanisms they use to terrorize civil populations and accomplish their objectives. Rangel mentions certain changes that make the guerrillas powerful at a local and regional level. First the non-state arm trade market has made them
powerful in military terms; second, increases in territorial power has consolidated the guerrillas as having their own political and military forms; third, the patronage armed system at a local level has been a notorious form of power in the last years; fourth, they have taken as an objective the terrorizing of the civilian population as an arm of terror.

Furthermore one other characteristic of the irregular war is the time factor. While governmental forces on electoral cycles only have a short period of time (four years) to resolve the problems, the guerrillas do not have this restraint. This is to the guerrillas’ advantage so that they can strengthen economically as well as militarily, establishing a long-term strategy. On the contrary, the government lacks a long-term military strategy due to the four-year governmental period where policy decisions have to be taken being conscious of the time constraints of elections (Rangel, 1998: 6-9).

The principal objective of an irregular war is to demoralize the enemy and weaken its military and economic power. This requires a long time and “the adversary is defeated when it is starting to loose internal power and its will to defend itself [...] the time factor is a key element to leave the opponent with no defense will and power” (Rangel, 1998: 11). The objective in the irregular war is not to defeat the enemy completely but to weaken the enemy and deviate its strategy. This means that the defeat in an irregular war implies a psychological defeat. Frederich August defines the irregular war as “a war that seeks to exhaust the adversary, diminish the will of defense, and affect the enemy psychologically; it is a long duration war and low military intensity. In the end, the group that can last longer will win” (Rangel, 1998: 15). The final objective is to disorganize the enemies’ strategy and its order so that the defeat comes more rapidly and easily.²

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¹ This quote is original in Spanish and translated by the author of this paper. Any translation mistakes are the responsibility of such author. Many quotes along the paper are original in Spanish translated into English and any mistakes are responsibility of the author of this paper.

² This section touching on the irregular war is taken from my undergraduate thesis “Antipersonnel Mine in Colombia: A View Through Different War Strategists.”
As stated before Colombia fits into this framework of the irregular war since it has been taking place for a long term. The guerrillas' strategy is not to conduct direct attacks against the governmental military forces, but attack them indirectly by using antipersonnel landmines, massacring civilians, kidnapping, and attacking towns among others. The next section will show some data to illustrate the complexity of the conflict and the increase of violence throughout the years.

1.2 Violation of International Humanitarian Law and Human Rights In Colombia

Colombia's culture has become one of violence where the news and media inform the public of the everyday massacres, kidnappings, assassinations and attacks of towns among other crimes. The Observatory for Human Rights as part of the Vice Presidency office in Colombia has been compiling data since 1990 at least in the issue of antipersonnel mines. The tables that follow will show a comparison of periods between January-May 2003 and January-May 2004. The second table will show the violation to human rights during Alvaro Uribe's governmental period which started in August of 2002.

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<thead>
<tr>
<th>Table 1.1: Comparison of Human Rights Violation for two periods.</th>
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<tr>
<td><strong>January- May 2003</strong></td>
</tr>
<tr>
<td>Homicides</td>
</tr>
<tr>
<td>Victims in massacres</td>
</tr>
<tr>
<td>Massacre cases</td>
</tr>
<tr>
<td>Homicides to union leaders</td>
</tr>
<tr>
<td>Homicides to majors and former majors</td>
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<tr>
<td>Homicides to congress men</td>
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<tr>
<td>Homicides to indigenous people</td>
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<td>Homicides to teachers</td>
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<td>----------------------------------</td>
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<tr>
<td>Homicide</td>
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<td>Homicide to union leaders</td>
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<td>Homicide to majors</td>
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<tr>
<td>Homicide to members of Congress</td>
</tr>
<tr>
<td>Homicides to indigenous people</td>
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<tr>
<td>Homicides to teachers</td>
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<tr>
<td>Victims in massacres</td>
</tr>
<tr>
<td>Massacre Cases</td>
</tr>
<tr>
<td>Homicides to journalists</td>
</tr>
</tbody>
</table>

Table 1.2: Human Rights Violation during Alvaro Uribe’s Presidency Period

These tables show how the conflict in Colombia has affected territory, people, ethnicity groups and in general the whole population. Some variables indicate that the conflict might be decreasing but the numbers of homicides, kidnappings, massacres, and victims is still very high. This reduction of victims and attacks does not mean that the conflict is over and is not going to persist over time. This data is still shocking as many more are going to be killed in homicides, attacks or massacres if actions by the government are not taken. These are just two examples of the types of crimes that occur in Colombia. And the use of antipersonnel mines is not an exception. As the charts show many have been injured or killed by stepping on a landmine. The next section will focus more deeply on the problem of landmines in Colombia, where they have been planted, number of victims, municipalities affected and other related topics.

1.3 The problem of antipersonnel mines in Colombia

The International Campaign to Ban Landmines (ICBL) managed to involve a big number of non-governmental organizations (NGOs) to convince and make governments aware of the problem and the causes of the use of landmines. Bypassing United Nations negotiation fora, in a record period of time, the Ottawa Treaty was put forward and in December of 1997, 122 countries signed it. It entered into force on March of 1999 making it the “quickest major international agreement ever to enter into force in history (Rutherford, 2000: 75). The Treaty
was a success due to its fast achievement and due to the fact that it was not a
States' initiative or a United Nations' initiative but it was a group of people who
started lobbying the members of government and Non-governmental
organizations to put the issue of landmines on the international agenda. With
various meetings in different countries the Treaty was first signed in Ottawa on
December 1997. Since then the landmine issue has been of concern for the
international community especially in those countries where landmines are used
or have been used in the past.

As of May 13, 2004, 142 states have ratified the treaty, while 9 have
signed it but not yet finished the ratification process, making it a total of 151
countries supporting the treaty. On the other hand, 43 countries have not joined
the treaty including China, United States, Cuba, North Korea, South Korea,
Egypt, India, Iran, Iraq, Israel, Pakistan, Russia, among others.

Through media, networks, and different symbolic objects, the different
NGOs involved, managed to convince governments to engage with the Treaty
and they were able to make high officials comprehend that the issue was a
humanitarian one, which made it attractive to governmental members causing

With the success of the Landmine Campaign, the "new diplomacy"
approach started to gain a wider acceptance on the international agenda and the
national agenda of the different governments. Whilst It is a positive outcome that
so many governments have signed, ratified and complied with the Treaty, the
important point is that non-state actors also comply with it.

It is not new to anybody that the use of antipersonnel mines is a common
strategy for many rebel groups in the world. According to Elisabeth Reusse
Decrey, President of Geneva Call, there are between 35-40 non-state actors still
using mines.³ Landmines affect many countries in the world, specifically those
that have been at war for long periods of time. They affect many communities
since the land remains unusable by peasants who grow their crops for

³This data was given at a speech given by Elisabeth Reusse Decrey at the conference "Antipersonnel Mines, Non-
State Actors and Humanitarian Agreements" which was held in Bogotá, Colombia on June 4-5, 2004.
sustenance, leaving them with no economic activity whatsoever. On the other hand, landmines cause great displacement from rural areas to urban areas as the people who live in the affected territories search for new life opportunities in the cities. Landmines affect mainly the rural areas of countries and the damage is not only physical but also psychological as the post-trauma effects affect the victims greatly.

International Humanitarian Law through the Ottawa Treaty prohibits the use of anti-personnel landmines. Colombia is part of the treaty but the problem is not going to be solved in the short term until the non-state actors operating in the country agree to a complete ban on the use of landmines. Colombia is the fourth country most infected by mines after Cambodia, Afghanistan and Chechnya (Housego, 2004).

Colombia is highly affected by landmines. The problem is not only that it already has landmines buried in the fields, but also that non-state actors keep using them as a strategy of war. These groups use antipersonnel mines for many purposes. The first is to delay the enemies' (Military Forces') operations in the battlefield. The second objective for the use of landmines is to detect the zone were the Military Forces plan an operation and therefore can delay the enemy, ruining its strategy. The third objective for which these groups use landmines is to destroy the infrastructure set up by the Colombian government, including the communication webs that connect the country. This strategy is mainly used by the ELN, and many times they have blown up oil dumps. After the attack to the oil fields “the guerilla lands the fields with mines, converting the fields in a mortal risk” (Meléndez, 2001: 1-3) for the Armed Forces and the population of the area. The same thing happens when they blow up the towers that provide energy to different regions of the country. In a seminar held in Bogotá, Colombia on June 4-5 of 2004, Francisco Galán, ELN leader, stated that “the mines are not used in an indiscriminate manner, but it limits its use to specific areas of defense” (Galán, Francisco, 2004). I would argue, however, that one can not make such a limited use of landmines since once they are planted in the ground they do not choose their victim. The victim can be anyone, from a horse, donkey or dog, to young
children, elders or men and women. Lastly, these groups use the antipersonnel landmines to protect their most important places of operation. As Alfredo Manrique argues “the mines are planted overnight to protect a guerrilla camping place” (Manrique, 2001).

Another problem is that of the demining process. It is very hard to carry out demining programs in countries where the conflict still persists. Either because the same groups can threaten the personnel or because once the demining takes place, the guerrillas plant the mines again without leaving any signal indicating where they have buried their mines. According to the Antipersonnel Mines Observatory, in 29 of 32 departments where governmental military forces start demining processes for their own security, almost immediately paramilitaries and guerrilla groups plant mines again (Redacción Nacional, 2004: 1-3).

The problem keeps growing and no strategy seems to be stopping these rebel groups and encourage restraint in using the landmines. How many mines are planted in Colombia? This is difficult to answer because the non-state armed groups do not even know where they are planting the mines. A global estimation is that 70,000 mines are buried in the fields. But, this is just an estimate and some argue that this number is higher (Minas Antipersonal en Colombia, 2001: 5).

In a seminar held in Bogotá in October, 2002, Francisco Santos, Vice President of Colombia said that at least, “411 municipalities located in 30 of the 32 departments were affected between 1990 and 2002” (Santos, 2002). This means that these mines have affected at least 38% of Colombia’s territory. He also stated that “while this event [was] taking place, at least 4 Colombians [were] being victims of antipersonnel mines in national territory” (Santos, 2002). Furthermore, every 12 hours there is a new victim of antipersonnel mines.

Additionally, the Obervatorio para los Derechos Humanos (Observatory for Human Rights), with the support of the Ministry of Defense estimates that between 1990 and 2002, there where 1634 victims, 50% of which have been children (Uso de Minas Antipersonal, 2002). The mine casualties “more than doubled from 216 in 2001 to 530 in 2002” (Landmine Monitor, 2003). According
to the Landmine Monitor Report, in 2003, 151 new casualties were reported between January and April. During the first four months of the present year landmines killed 43 soldiers and injured 95. This means that there is more than one amputee per day. "Since 2002 up to date the soldiers that have fallen in minefields are so many that with them one could create two complete battalions. They represent 60 percent of the victims the other 40 are peasants. Half of them are children" (Objetivo: mutilar, 2004: 234). A study from the Department of National Planning states that in the year 2002 the costs to attend victims was $3,174,251.65 (US). Moreover, in 2002 the mines produced a loss in human capital of $166,094,563 (US) and the loss of land productivity in mine field areas was of $33,218,912.60 (US) approximately (Objetivo: mutilar, 2004: 235). This data shows that the state has to spend many resources just in assisting landmine victims, and these are the ones who register. On the other hand while spending lots of resources dealing with these accidents, it is also losing a lot of potential sources of economy such as useful land.

The Observatory for Human Rights started analyzing data since 1990 and the following table shows the number of incidents and accidents due to antipersonnel mines since this period until June 2004.

Table 1.3: Events due to antipersonnel mines- 1990-June 1, 2004

<table>
<thead>
<tr>
<th>Events</th>
<th>Total</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Accidents</td>
<td>1,468</td>
<td>31.10%</td>
</tr>
<tr>
<td>Incidents</td>
<td>3,252</td>
<td>68.90%</td>
</tr>
<tr>
<td>Total</td>
<td>4,720</td>
<td>100%</td>
</tr>
</tbody>
</table>


4 The article gives these estimates in Colombian pesos. The exchange rate used to convert it into US dollars was of 2,709.30 pesos for 1 US dollar. This as of June 23, 2004. This rate will be used through out the document as needed.

5 According to the Observatory of Antipersonnel Mines an accident is an event where human victims are involved. An incident is any type of event caused or initiated by the presence or belief of the presence of AP mines where there are no human victims.
According to a UN high official from one and a half years ago landmine victims have increased 345%. Jimenez stated that the number is probably much higher because many deaths and injuries in remote areas go unreported" (Housego, 2004).

Non-state actors, specifically the FARC and the ELN, plant most of the buried mines in Colombia. A report by the UN High Commissioner for Human Rights expresses that there has been widespread use by guerrilla groups of anti-personnel mines in hotly contested areas" (UN High Commissioner for Human Rights, 2003: 59). The FARC have used landmines in many regions and they kill military personnel and children. For example, "on 29 October 2002, three soldiers were killed and five injured by an antipersonnel mine allegedly laid by the FARC" (Landmines Monitor Report, 2003).

Even though Colombia has signed the Ottawa Treaty, there are various versions of whether the Colombian Military Forces have used mines since the Treaty was signed. On one hand a UNHCR Report argues that in 2003 the Military Forces used these mines for defensive purposes only. They basically use them to protect infrastructure and their most important bases so that the rebel groups cannot attack them. As the UN report explains, "the Office in Colombia was informed that at the beginning of the year the Army had mined the Munichique hills, an area crucial to communications in south-western Colombia" (Report of the UN High Commissioner for Human Rights on the human rights situation in Colombia, 2003: 59). This shows that the military uses landmines mainly for protection reasons since the area is very important for communication purposes. On the other side, Francisco Santos (Vice President of Colombia) and Luz Piedad Herrera (Director of the Antipersonnel Mines Observatory of the Vice Presidency office) both argued that the military forces stopped using the mines and that so far they have destroyed 8,038 and by October of this year 13,660 stocked mines will be destroyed. It will leave on reserve 986 mines for training purposes. So, the panorama in this sense is quit blurry, and it is not so clear if the Military Forces are using these mines or not. But, if the Ottawa Treaty is to be respected, then the government, in this case the Army, should not be laying
landmines. It is certainly a controversial issue, because the Army also needs some means of protection, at least to protect its bases and infrastructure. One effective way to do it is by planting mines surrounding the strategic area.

Victims are not the only problem, as the demining process is a costly one and it will take very long to demine Colombia if actions are not taken as soon as possible. First, there are no maps or any type of documents that suggest where the mines are planted. This means the process of recognition and location of mines has to take place before demining can be possible. With 38% of the territory affected by landmines or with suspicion to be affected by landmines, much personnel and cooperation from the international community is going to be needed. The departments with more accidents due to landmines are Antioquia, Santander, Cundinamarca, and Caquetá (Futuro Desminado, 2004: 44). Since 1990 and until the end of 2003 these departments had 850, 570, 294, and 264 accidents of landmines respectively. The following map shows a distribution of accidents in the different departments and municipalities of Colombia. There are only two departments that have not had landmine accidents, Guanía and San Andrés y Providencia.
Figure 1.1: Accidents by AP mines in Colombia’s municipalities
1990 – May 20th 2004

Taken from: Programa Presidencial de Derechos Humanos y DIH. Observatorio de Minas Antipersonal. At: http://www.derechoshumanos.gov.co/minas/descargas/eventosmunicipio.jpg
Due to the intensity of the conflict and the increased use of landmines the demining process has to start now, even in a complex situation. In a study by the Department of National Planning, there are 72.6 Km$^2$ that are mined which is equivalent to 9,777 soccer fields.\textsuperscript{6} A lot of economic resources are going to be needed to demine this area. Considering three different scenarios in the country the costs would be as follows:

1. In a scenario where the demining process takes 10 years and mines are stopped being used by the non-state actors the cost is between 23.7 million dollars and 45.1 million dollars.
2. In a scenario where the demining process takes 20 years and the non-state actors stop burying mines the cost is between 18.5 million dollars, and 45.1 million dollars.
3. In a scenario where the demining process takes 20 years and only the first 10 years the non-state groups keep using landmines the cost is between 21.9 dollars and 53.2 million dollars.\textsuperscript{7}

To have a clearer view and understanding of the demining costs in Colombia this case can be compared to that of Nicaragua. Nicaragua is also a country that was affected by landmines due to an internal conflict. As peace agreements were signed the demining process started being discussed. According to Tammy Hall (director of the OAS demining program in Colombia) the process in Nicaragua was worth approximately $3 million (US). Nicaragua has a total area of 120,254 Km$^2$, which compared to Colombia is much smaller. Colombia has an area of 1,038,700 Km$^2$. With this in mind the demining process in Colombia can cost more than the process in Nicaragua and there is a lot of work ahead for the government and the various NGOs working on this issue.

\textsuperscript{6} These are the Department of National Planning estimations. Another estimation accounts for 200.000 Km$^2$ of mined areas
\textsuperscript{7} This data is taken by a study done by the Department of National Planning on April 17, 2002, power point presentation done by Tomás Gonzales, former subdirector of the Department. Bogotá, Colombia.
To summarize, the landmine problem in Colombia is crucial and very complex. Not only the number of mines and the number of victims, but also the post-conflict resolution will be hard if a demining program is not advanced in the near future. This does not mean that the Colombian government has not started efforts in trying to come to a solution to the landmine issue; but, when the conflict is still in place it is very hard to carry out actions. Through different programs the government has tried to implement mine risk education campaigns in cooperation with different multilateral, national and non-governmental organizations. Demining efforts by the military have also taken place even in the difficult situation and danger zones. The next section will give a brief overview on the actions taken by the government and some of the accomplished results.

1.4 Colombia’s mine action programs

Even though the situation in Colombia is one of internal war and non-state actors keep violating human rights and International Humanitarian Law as explained in previous sections, the Colombian government has taken some action. This section will focus on the domestic law adopted after the signature of the Ottawa Treaty. It will mention the other programs that it is implementing as part of the action against landmines.

Internally, Colombia has adopted some laws dealing with antipersonnel mines. In the first place, on November of 1999, the weapon industry INDUMIL stopped producing landmines as a compromise to the Ottawa Treaty (Landmine Monitor, 2003). On September 2 of 2000 at the UN millennium meeting Colombia ratified the treaty. On January 14, 2000 Law No. 554/2000 passed through congress approving the Ottawa Treaty.

The concern about the issue has been increasing over the past few years. The Government has started to pay more attention to the problem of landmines in Colombia and has implemented some projects for the assistance and prevention of landmine accidents. On October 8 of 2001 the Presidency, through the Decree 2114, agreed to create a National Inter-sectoral Committee for the
Action against Landmines. This Committee must do a follow up to the Colombian State in its responsibilities with the Ottawa Treaty.

Another mechanism is the Accident Prevention and Integral Attention to Antipersonnel Landmines Victims Program. The purpose of this program was to advance in the creation of "the Observatory for Antipersonnel Mines disability and establish an integral action system for the survivors of antipersonnel mines in 160 municipalities of Colombia, according to the social and demographic characteristics of the victims" (Lahuerta and Altamar, 2002: 8). This program costs US$15,829,500. Today, the project is being executed in 16 municipalities of Antioquia, Bolivar, and Santander.

Furthermore, the National Development Plan includes the implementation of the National Plan Against Landmines. This was approved on January 27, 2003 after 20 discussion tables and is in constant revision. The National Development Plan states that "the government will strengthen the Antipersonnel Mines Observatory, the sensibility and prevention components, as well as the demining process in Colombian territory, given the particularities of the conflict" (Hacia un Estado Comunitario, 2003: 83). It establishes that the government will "develop actions to attend victims and on March 1, 2005 it will destroy those that are in stock" (Hacia un Estado Comunitario, 2003: 83). To accomplish these objectives the approval and execution of the National Plan Against Antipersonnel Mines is necessary. This plan combines attention to victims and the strategy, goals and actions for the destruction of mines and victim assistance. The assistance includes immediate attention and victim reintegration in education programs and social life in general.

The government is certainly trying hard to accomplish what the National Development Plan establishes. This is so that for 2004 the Observatory of Antipersonnel Mines was assigned 2.500 million pesos, which is equivalent to $922,748 (US) approximately for mine risk, education programs, assistance to victims and in general for the complete operation of the landmine observatory.
and to put forward the National Plan Against Landmines. This way the implementation of the Antipersonnel Mines Information System has become a reality. There has been a permanent agreement between various social organizations and local authorities to capacitate and work together in different campaigns against landmines. Additionally some impact studies have been done as territorial plans have been elaborated in five departments (Santos, 2004).

Last but not least, one of the most important agreements is the one signed between the government and the OAS (Organization of American States) on March 5, 2003. The objective of the agreement is to

establish the terms and conditions of the technical assistance cooperation that the SG/OAS will give to the Antipersonnel Mines Observatory ascribed to the Administrative Department of the Presidency of the Republic, in the execution and monitoring of the National Integral Action Plan against Antipersonnel Mines, in coordination with the national application measures of the Ottawa Convention in Colombia’s Republic, according to what is determined in the Law 759, of 25 of July 2002 (The Plan) (Acuerdo de Cooperación y Asistencia Técnica, 2003).

The problem of landmines in Colombia is not easy to solve, but measures are being taken by the government to try to minimize the risks and demine as soon as possible. But, due to the high amount of resources needed, the government cannot work alone. It needs the support from the civil and regional organizations, multilateral organizations, and international organizations like the OAS in order to put an end to the landmine problem. Donating countries such as Canada have been willing to help and send resources to Colombia for landmines programs. This is why the National Fund for Landmines was created as a bridge between the donating countries and the national institutions to receive and monitor the resources that these countries and institutions make available to attack the problem.

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8 This data was given by Luz Piedad Herrera at the Conference held in Bogotá, Colombia June 4-5, 2004.
Chapter II:
Norm compliance behavior of States versus behaviour of Non-state actors

Human beings are involved with norms and rules in every day life. From understanding that passing a traffic light on red is illegal to understanding that killing someone else is wrong, we are bounded by norms and rules in every country, city, town or village. This has become a common denominator for all who live in a society constituted by people. There are informal and formal norms - those which are not written and guide a society, and those which are written. Through the years and due to historic events, norms have become formal in the sense that they are usually written, no matter if it is a Constitution, an agreement, a treaty, or national law. In this sense, the issue of antipersonnel mines has become a concern for many and there is already a norm to stop the use, transfer, and stockpiling of landmines. But the question is who is bound by this norm? Does everyone in a society have to behave the same way? More specifically, should non-state actors be bound by the same norms as states? Should they behave the same way as states do? The purpose of this chapter is to analyze norm construction, and analyze if states and non-state actors should be considered to conduct themselves in the same manner.

The main theoretical stream in the academic field of international relations that analyzes the behaviour of a society through norms is constructivism. As its name indicates constructivist scholars believe in the social construction of norms, that institutions can shape states' interests through common beliefs, identities and values, and that norms are a social construction of shared experiences. Finnemore, for example sees organizations as agents who socialize states and shape their interest. She argues that neorealism and neoliberalism would not be able to explain this due to the premises that interests come from inside the state, therefore no actor or institution can teach states what is appropriate or better to adopt (Finnemore, 1996).
Constructivism is also able to explain the replicability of norms. Constructivists would argue that norms matter and are a social construction because shared values and beliefs exist in society, and are the motors in creating norms. John Gerard Ruggie, criticizes realism for seeing ideational factors as exogenous to the individual and states. He argues that neorealists "who seek to add greater determinative content to the predictions of Waltz's sparse model often do so by importing into it unacknowledged ideational factors, such as the role of culture as an instrument of social mobilization or in generating threat perceptions" (Ruggie, 1998: 865). Ruggie continues on to argue that the "the most important feature differentiating constructivist from other readings of these and similar phenomena is that they make the case that principled beliefs are not simply “theoretical fillers [...] but that in certain circumstances they lead states to redefine their interests or even their sense of self" (Ruggie, 1998: 868).

Constructivists consider the state as the major agent in international relations, but they leave space for other actors to have influence over the State and governmental decisions. They acknowledge the state as the main actor of the international system, but that there are non-state actors that are emerging and one way or another influence governments and the international community in the process of decision making. What Peter Haas identifies as epistemic communities and what Keck and Sikkink name as transnational advocacy networks are two actors that play essential roles in international relations, especially with respect to the creation and adoption of norms.

As Ruggie argues, "one major route for constructivist explorations of the impact of causal beliefs has been through the roles played by transnational networks of knowledge-based experts, or 'epistemic communities'" (Ruggie, 868). Since constructivists base their argument on beliefs and ideas, the definition given by Haas of epistemic communities fits accordingly into the constructivist view. Haas defines epistemic communities as "a network of professionals with recognized expertise and competence in a particular domain and an authoritative claim to policy-relevant knowledge within that domain or issue-area" (Haas, 1992: 3). These communities share the same casual, normative and principled beliefs
and share "a set of common practices associated with a set of problems to which their professional competence is directed" (Haas, 1992: 3). This means that these groups share common norms and principles, as is the case of constructivists in the sense that is the beliefs and norms that drive the states' actions. As Haas explains throughout his article, policy-makers usually consult these groups when there is uncertainty about an issue-area and information is required. These groups gain more importance and are required as the international system becomes more complex and in a way unpredictable.

Another group of actors who fit into the constructivist view are transnational advocacy networks since they also touch upon the idea of a shared set of ideas, values and beliefs. Keck and Sikkink define these groups as "networks of activists, distinguishable largely by the centrality of principled ideas or values in motivating their formation" (Keck and Sikkink, 1998, 1).

Due to a set of concerns and shared interests, these groups fight towards one or many goals. Information is very important for these groups to operate and advance in their different activities. Within a network, groups are able to share information. Either through media, or through testimonies they can convince governments to sign a treaty or change a policy measure. According to the authors what is innovative about these groups "is the ability of nontraditional international actors to mobilize information strategically to help create new issues and categories and persuade, pressure and gain leverage over much more powerful organizations and governments" (Keck and Sikkink, 1998:2). In general and as these two authors mention in the book, these networks are useful to pressure governments and also they are able to surpass the frontier of a state and influence another state to apply any kind of agreement, treaty or policy within its domestic boundary.

Furthermore, Kal Raustiala explains that NGOs are useful for the states' own interests. As he explains, "states do not necessarily lose and in fact often gain through the enhancement of NGO access and participation" (Raustiala, 1997:724-725). NGOs have been actors that work internationally but link the needs of local actors with global ones. This is a positive aspect of the
transnational networks since it is important to have a clear perspective of what critical issues are of importance in a state as well as outside of it. This would be coherent with Keck and Sikkink's argument that "governments represent a subset of domestic society and that individuals influence governments through political institutions and social practices linking state and society" (Keck and Sikkink, 1998: 214). This is why the local needs cannot be put aside as they also influence some governmental decisions.

According to Raustiala states benefit from NGOs in different ways. First they inform states about what policy options are viable. And second, NGOs are useful to monitor negotiations and give non-biased information to other states on the decision of others. His analysis is interesting, since contrary to other authors he analyses the issue of NGOs in terms of benefits for the states, other than just pretending that NGOs are useful only when states are not willing to act according to the peoples' interest or because they lack information.

Another actor that can influence states and other players (such as local communities, organized regional movements and to a certain point, non-state actors) are international organizations. Martha Finnemore analyzes international organizations as major actors in socializing states to adopt certain policies and fit in the international system. In a broader perspective this author focuses on sociological institutionalism theory, the English School and constructivism which believe that norms "define identities, interests and social realities for the people who inhabit those organizations" (Finnemore, 1996: 3). Finnemore argues that these theories are similar in the sense that they see structures as influencing agents (actors) and that international politics consists of a "socially constructed nature" (Finnemore: 3). The debate between contending schools in international relations revolves basically around who are the agents, what are the structures and if they act independently from each other or if one can influence the other. It is basically

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9 These are just few explanations of why NGOs are beneficial for states. For more detail see Raustalia, Kal. "States, NGOs, and International Environmental Institutions," International Studies Quarterly 41:4 (December 1997).
whether analytically one treats actors (i.e., agents), capabilities and preferences as given and derives social structures from their interaction, or whether one takes the social structures as given and treats actors, their preferences and powers, as defined by the social system(s) in which they are embedded (Finnemore, 14).

Contrary to most political scientists studying this debate, Finnemore mentions the three schools of thought that take a more structural approach than an agentic one. She argues that "social structures may supply states with both preferences and strategies for pursuing those preferences" (Finnemore: 15). Structures can be composed by a share set of values and therefore norms of behavior, rules and principles that are socially constructed can guide states to accomplishing whatever goals they set for themselves. In this sense scholars studying constructivism believe that "social structures mold preferences" (Finnemore: 17) and want to make these structures causal. The English School uses the concept of international society where there are some rules, values and institutions "that govern both who is a member of the society and how those members behave" (Finnemore: 18). Sociological institutionalism argues that the social structure is made by a world culture. This means "the modern international system is governed by a powerful set of worldwide cultural rules whose core is the Weberian notion of rationality" (Finnemore: 19). These are different but all in all, the social structure shapes the preferences.

Another new idea, which rises when other actors different from states are considered, is that it is not just states who cause change, but international organizations. She argues that these organizations can teach states what is important and relevant. But more importantly the idea is to make a dual strategy to try to explain state behavior and not only focus on structures but also on agency because "agents and structures are mutually constitutive" (Finnemore, 24).

If constructivists in the agent-structure debate argue that structures can shape preferences and the actors' interests, then Richard Price and Nina Tannenwald relate to this model of thought. Price and Tannenwald use the chemical and nuclear weapons taboos to understand how norms can construct state identities and preferences. In a sense a norm that was constructed shaped
state interests to the point that there was a non-use of nuclear weapons. The norm could have risen from inside the state or internationally and spread to other places, but this does not matter much for the discussion. What matters is that it was a construction of an image of weapons of mass destruction. Thus the issue is “how normative considerations, identities and interests regarding nuclear use mutually shaped each other and hence influenced outcomes” (Price and Tannenwald, 1996:137-138).

Similarly, Alexander Wendt also focuses on the agent-structure debate. He focuses on the relation between structures and agents. He argues “it is impossible for structures to have effects apart from the attributes and interactions of agents” (Wendt: 12). Similarly to Finnemore, Wendt defines structure as social phenomena contrasting with the material view, making a strong emphasis on the issue of shared knowledge. He uses the debate of agent-structure to try to explain how ideas can shape interests and constitute power. This approach can explain systemic change furthermore. He contrasts this with a materialistic approach by stating that if “interests are made of ideas, then discursive processes of deliberation, learning, and negotiation are potential vehicles of foreign policy and even structural change that would be neglected by a materialist approach” (Wendt:135). Wendt uses the idealist approach to explain part of the problem of the agent-structure debate.

Continuing with this argument is the idealist approach where cognition is the agent and culture is the structure. This is why an “idealist approach to interests also suggests ways to operationalize the relationship between cognition (agency) and culture (structure)” (Wendt: 134). Interests come from a certain idea or in Wendt’s own words some kind of ideas. In this sense he argues that interests and where they come from is best explained through an idealist ontology. Even though he does not neglect that material elements are important in understanding power and interest, he argues that the best way to explain interests is through idealism.

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2.1 Criticism of Other Theories from a Constructivist Perspective.

As the agent-structure debate develops constructivists go further than the material and power capabilities of the state, while realists and neoliberalism consider that the world organizes its structures according to the military or economic power that a state holds. The few criticisms that will be stated ahead help understand constructivism in a deeper manner. Through the criticism of other theories one can understand the bases of other theoretical approaches. In this case through the criticism of neoliberal and realists theories, one can comprehend the main arguments of constructivism.

In the first place, Katzenstein makes an effort go further than the physical capabilities of states, which is the main interest of states according to neorealism. In this sense the focus of the book, is "the effects that culture and identity have on national security" (Katzenstein, 17). For Katzenstein, neoliberalism and regime theory do not go further in exploring the essence of norms. Norms can guide action and "reflect the premises of actions" (Katzenstein:20), and regime theory captures only the most elementary component about norms. Or in his own words, in a statistical sense it only captures what "is ‘normal’ about norms" (Katzenstein: 20). He also argues that since these theories see states as unitary actors, there are no interests in looking deeper into the issue of state identities.

Katzenstein also argues that neorealism and neoliberalism do not have the correct view of the international system. They do not acknowledge that the system can be composed by norms and that the international system "constrains national security policies directly without affecting conceptions of state interest" (Katzenstein: 25). To refute this argument Katzenstein makes reference to the issue that "the domestic and international environments of states have effects; they are the arenas in which actors contest norms and through political and social processes construct and reconstruct identities" (Katzenstein: 25). In this sense Katzenstein has a complex view and believes that both the domestic and
international arena affect the action of actors and therefore the national security policies.

Price and Tannenwald also explain why realism and rationalism do not explain the chemical and nuclear weapons taboos. Realism does not explain it because the weapons were not used, and not because they were not efficient for the states' interest. "If anything the history of nuclear weapons is a history of unresolved disputes over their utility, which continued into the 1990-1991 Gulf War" (Price and Tannenwald: 146). On the other hand these authors argue that rationalist theory does not explain the taboo for various reasons. The most important of all is that rationalists see norms as independent variables while constructivists do not. The non-use "factors may not in fact be independent variables. They may only become politically salient because of the prior existence of a taboo or norm, however strong or weak" (Price and Tannenwald: 147). Constructivism sees the world in terms of co-constitution of structures and agents. In this sense, "constructivism does not view the world in terms of discretely existing independent variables whose independent effect on variance can be measured according to the logic of statistics" (Price and Tannenwald: 148).

Martha Finnemore also criticizes or believes that neorealism and neoliberalism are not complete enough to explain certain things the international relations. This author touches on the issue of preferences to criticize neorealism and neoliberalism. The most important one is that "states-as-actors and state preferences are still assumed, not problematized" (Finnemore: 9). The other crucial point is that they assume that the states preferences are inherently internal to the state without considering external factors. Thus she argues that "without specifying a priori and exogenously both actors and their preferences, these theories cannot predict international interactions" (Finnemore: 9). Finnemore is looking at international organizations as agents who socialize states and shape their actions. Neorealism and neoliberalism would not be able to explain this due to the premises that interests come from inside; therefore no actor, or institution can teach states what is appropriate or better to adopt.
Lastly, throughout his book, Alexander Wendt, criticizes neorealism and neoliberalism, amongst other theories, to explain how structures affect agents and the issue of power, interest, and internalization. It is quite complex to outline all of the criticisms but I will try to outline the most important ones and how he tries to fill the gap left behind by the other theories. Neorealist and neoliberal theory take into account material factors such as physical strength and the material capability to maintain their security, as the main interest of states to survive in the system. This means that interests do not vary greatly. Alexander Wendt sees this differently and argues that "the most important structures in which states are embedded are made of ideas, not material forces. Ideas determine the meaning and content of power, the strategies by which states pursue their interests and interests themselves" (Wendt: 309). Ideas therefore are social structures that help explain the distribution of power and for what purposes.

2.2 Constructivism and the Ottawa Treaty

The Ottawa Treaty can be used as an example of constructivism and the creation of norms. The Ottawa treaty showed that the militarily and economically powerful states or formal intergovernmental organizations such as the UN are not required in processes of norm construction. First it was not primarily states who put the issue on the agenda, it was a number of individuals who created a movement against landmines and started to convince the governments that landmine use had to be stopped at some point. It was in 1990 when NGOs started to understand the problem and create concern world-wide. It was in 1992 when the movement decided to name the antipersonnel mine campaign, and the International Campaign to Ban Landmines was created (ICBL). It was then that the ICBL started supporting NGOs world wide to work on the prohibition of landmines. Such is the case that by 1996 "the ICBL consisted of some six hundred NGO members from forty countries" (Price, 1998: 5). The main reasons to put the landmine issue on the agenda were terrorism, use of landmines by non-state actors and the end of the cold war era (Rutherford, 2000: 83).
Examples used by Richard Price in this article offer a clear explanation of how an ideal construction and a common objective made different NGOs convince governments to sign what is now the Ottawa Treaty. Even though he gives many other reasons of why this specific case was a success he also uses a constructive approach to explain how ideas and identities can influence states in advancing some kind of policy. He uses the concept of grafting to explain how ideas brought about by transnational networks shape the states' interest. He argues that grafting was a useful mechanism to understand "the roles that ideas play" (Price, 1998: 9), in the case of landmines. In this sense one could argue that transnational networks are useful in disseminating information and teaching states new ideas and putting problematic issues in the agenda of the international world. Price argues that "states are receptive to being taught about what is appropriate or useful" (Price, 1998: 5), following Martha Finnemore's argument that international organizations as actors can shape the states interests.

Another strength of transnational networks is their influence in the generation of new norms. The establishment of previous norms and taboos such as the chemical weapons taboo "structures the normative terrain, making it possible to countenance a ban on mines" (Price, 1998:9). As Price argues "poison chemical weapons, and biological weapons have been castigated as unfair, cheap equalizers because they have been understood to undermine the exclusive advantages of centralized high-technology state violence" (Price, 1998: 344). So, there are already norms that have existed which make it easier to advance in the creation of a new norm.

The idea of emulation is essential where the reputation of a state is at risk in the international system, and this provides us with another reason why states signed the treaty. Price concludes that without the impulse of the transnational civil society the treaty would have not become a reality. In this sense constructivists would argue that first, a norm has already been created (The Ottawa Treaty to Ban Landmines), therefore it is easier to advance in engaging non-state actors as well as states. Secondly, they would argue that there are
common social values in a society that make the implementation of mechanisms successful, not only because there is a norm and a necessity, but shared values and identities that make these instruments relevant for non-state actors to stop using landmines.

In the case of the Ottawa Treaty, constructivism is accurate in the sense that it was not the powerful that wanted a norm to be set. The process of the signing of the treaty did not include the U.S. Additionally, the UN did not have any involvement at any instance of its negotiation. So, it was an initiative by civil society without the usual state powers involved in the process. This is why “the AP mines taboo establishes a new normative context that shapes how states redefine their interests” (Price, 1998: 345).

States signatories to the Treaty are now bound by an international norm, but how about other actors who use landmines for their war strategies like those operating in Colombia? One of the flaws of the treaty is that it only includes states, leaving one of the main users of landmines out of the process and norm compliance. However AP mines may be attractive to non-state actors, to the extent that the members of insurgencies and guerrilla conflicts aspire to self-determination, a pull towards compliance will be exerted by the expectation of the international community that a legitimate member for the community of states abides by the AP mines regime (Price, 1998: 345).

There is a norm that has already been constructed but it should be for everyone to follow and comply, not only states. The next chapter will touch on what instruments are available to engage non-state actors with the Ottawa Treaty.
Chapter III:  
Mechanisms/Instruments to Engage Non-State Actors

After reviewing the construction of norms and the behavior of states in norm compliance versus the behavior of non-state actors, it is important to mention the mechanisms or instruments that members of the international community (such as states, multilateral organizations, international organizations and non-governmental organizations) have been trying to implement to make non-state groups respect the norms of human rights and International Humanitarian Law. Considering the complexity of the landmines problem in Colombia, non-state actors using the mines have to agree to stop using these artifacts as a medium of war if Colombia wants to accomplish the articles in the Ottawa Treaty and be a country without mines. This chapter will mainly focus on the work that Geneva Call has been doing in Colombia and in other countries like the Philippines and Burma/Myanmar, among others. Some other mechanisms will be analyzed briefly but the main instrument is that of Geneva Call.

The initial question to answer here is why one should try to engage non-state actors to a ban on landmines. Soliman Santos gives seven important reasons. First, "most of the landmines being planted and used are a result of war between governments and rebel groups (Santos, 1999: 10). Second, the Ottawa treaty does not have any mechanism for non-state actors to sign it, therefore it is exclusively applicable to States (non-state armed groups were not involved in the negotiation process of the Treaty). Third, if one wants to accomplish a truly universal landmine ban, then "someone" has to try to make non-state actors stop the use of such weapon. Fourth, if non-state actors adhere to a landmine ban, then this will push governments that have not signed the treaty to comply with it. Fifth, some non-state actors might end up involved in government. Sixth, since rebel groups control territory, engaging them is necessary to find a solution on the ground. Lastly, many non state actors produce these mines (Santos, Soliman, 1999).
The main flaw of the Ottawa Treaty is that it made a great effort in convincing the different governments to sign it; however it did not consider that in many cases it was the non-state actors who were doing the damage using antipersonnel mines. In the case of Colombia it is mainly the FARC and the ELN who are using these weapons for their benefit, but some instruments are available to make them agree upon an elimination of employing mines. This is possible even in a war environment like the one in Colombia, even though I do not neglect that it is not an easy task and that many obstacles can interpose in the way for implementing the instruments. The characterization of how to engage non-state actors can be divided into two categories, the hard and the soft approach.\[11\]

The hard core approach is “basically international and national prosecution for war crimes other international crimes and violation of national legislation” (Santos, Soliman, 1999: 18). I would argue that shaming is also part of the hard core approach. This means reporting their actions in the media through the different NGOs; or putting them on the terrorist lists, just as the United States does. On the other hand, the soft approach is that of dialogue, education and persuasion, which means working together with the groups trying to build confidence and capacity. Before analyzing these two approaches and their components it is important to mention other processes in order to be able to engage non-state actors with human rights and the International Humanitarian Law.

3.1 Knowing the facts

Before trying to get a commitment by non-state actors it is important to find the relevant information about the groups an organization wants to work with, dialogue or shame. In this sense we would want to know the structure of the group or its composition, their modus operandi, who are the leaders, what are the main strategic places for these actors to operate and how much information the leaders have on its members’ actions? (Ends & means: Human rights

\[11\] Soliman Santos member of the Philippines Campaign to Ban Landmines in his article “The Ottawa Treaty and non-state actors”, ICBL, 1999, uses this categorization.
Approaches to Armed Groups, 2000). These facts are very important in order to be more conscious about the situation and context of the target country and groups.

It is important to understand the context, the character of the armed group, the role of the State and the capacity of civil society. Secondly, it is important to understand, the aims, the ideology, leadership, tolerance, the methods used to have military command and control, the constituency and who are the main sponsors (Ends & means: Human Rights Approaches to Armed Groups, 2000).

In the case of Colombia this is very important since the modus operandi of the different groups changes over time. As explained before, the irregular war has characteristics whereby the guerrilla benefits insofar as they have the time factor in their favor.

It is important to be aware of these characteristics also for engaging non-state actors with the Ottawa Treaty in the case of the FARC and ELN. Anti-personnel mines in Colombia are used with different objectives, but most important of all to delay military operations and terrorize civilian populations, two of the characteristics of the irregular war. In this sense when the momentum for approaching these armed groups comes, it is important to acknowledge the other’s (FARC and ELN) objectives in using landmines because therefore it is easier to know how to approach the group. In the case of Colombia, the strategy would be to try to convince these groups that landmines cause more civilian and military deaths, and that for military strategy they are not that useful and handy.

It is important to know where the groups are planting these mines as well. One could do this through establishing the main areas of operations so that there can at least be hypothetical evidence where the landmines are buried. As the groups use the mines to protect strategic areas then it is important to identify them and then be able to establish where the mines are planted. Through the different programs, the Observatory of Antipersonnel mines and the cooperation of the international community in general, advances have been made in compiling data for demining purposes.
It is important to be informed before using any method to approach the groups. This way one can identify which approach is better for which group, as rebel groups do not necessarily operate the same.

3.2 Hard Core Approach

After knowing the facts and establishing the characteristic of the group one can start deciding which approach to use depending on the structure and composition of the group. First the hard core approach will be analyzed and then the soft core.

3.2.1 Naming and Shaming

Many times naming and shaming is the preferred instrument for NGOs and governmental institutions to engage non-state actors with the norms. As Bruderlein argues, this type of public pressure "questions their legitimacy within their own constituencies or domestic support groups, their diasporas and the international community in general" (Bruderlain, 2000). This type of activity can be done through the media and different organizations.

A report from the International Council on Human Rights Policy analyses the issue of how to engage non-state actors through naming and shaming. One can, shame, persuade, or work with the non-state armed groups. This should be decided on the basis of the group's policies. The background knowledge explained in a previous section is therefore very important to accomplish this goal. Starting with naming and shaming, this can be done through public denunciation through the use of media, which should inform the public of violations to Human Rights and International Humanitarian Law, especially the problem of landmines as this is the focus of the paper.

The media should report how many victims have been injured in a specific place, during a specific period of time. The report argues that there is "some reason to believe that adverse publicity based on the public release of critical

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12 This is why it is so important to have knowledge of the groups' compositions, strategy, and the context in which they operate.
human rights reports has influenced armed groups in some countries” (Ends & Means: Human Rights Approaches to Armed Groups: 41). NGOs who work with Human Rights issues such as Amnesty International and Human Rights Watch often do the release of the information. On the other hand, the ICRC is much more interested in having direct contact with the different groups, often to implement a private dialogue approach.

In the case of Colombia, reports have been submitted by different entities either national or international. Many NGOs in Colombia work with landmine victims and they are in charge of disseminating the information through the media. International NGOs have also disseminated information about the use of landmines and the violation of Human Rights by the ELN and the FARC. For example with the support of UNICEF a report came out in 2000 called *Sowing Mines, Harvesting Deaths*, where there is a complete explanation of the use of landmines in Colombia including personal testimonies of landmine victims. This report not only had the support of UNICEF, but also of the Canadian Government.

Recently the UN High Commissioner for Human Rights made a statement on the Human Rights violations in Colombia and there was a section on antipersonnel mines. More importantly the ICBL has made great efforts on publishing the Landmine Report which explains the problem of landmines in Colombia using media reports and interviews from the main newspapers and sources in Colombia.

Lastly the media in Colombia has started to report when a landmine victim is injured, when the Military destroys a landmine field and other events caused by landmines. As seen in previous section many newspapers and magazines report the landmine problem in Colombia to inform the citizens. And this is just one of the examples that the newspaper published. Evidently the televised news reports have also reported the cases that deal with landmines on a regular bases.

It is very important to understand the legal mechanisms available to better comprehend the hard approach. Soliman Santos establishes three essential legal
and normative frameworks that can help name and shame the non-state actors: the International Criminal Court, International Humanitarian Law and the Human Rights framework. The relevant component within International Humanitarian Law is basically the Ottawa Treaty. As Santos argues "antipersonnel mine use is made an international wrong, but not an international crime. This could be among the possibilities for review and amendment of the Ottawa Treaty in the future" (Santos, 2001: 37). On the other hand the International Criminal Court can be an instrument for the future. At the moment Article 8 on War Crimes criminalizes weapons which cause superfluous injuries or unnecessary suffering or are inherently indiscriminate" (Santos, 2001:38). Antipersonnel mines have not yet been included in the list, but maybe in the future it is a possibility.

The last framework, following Santos' argument, is that of human rights. The ban of landmines is certainly a disarmament measure but also a human rights one in "terms of the rights that would be protected by a total ban. This would strengthen the emergence of such a ban as a new customary norm, not only of IHL but also of international law, which includes human rights law" (Santos, Soliman, 2001: 39). The legal debate is still at hand but the International Council on Human rights uses the term human rights abuses as "conduct or practices that clearly infringe on standards of HR and/or IHL" (Santos, Soliman, 2001: 39). As a term this is practical (leaving the legal debate to one side) to be able to continue the work to engage non-state groups with these norms. With this legal framework in mind, the idea of punishment is very useful to engage non-state actors.

Utilizing punishment as a way to engage non-state actors with the Ottawa Treaty is a topic that has been widely discussed recently. With the implementation of the Rome Statute that allows setting up an International Criminal Court the issue of punishment has been discussed on the international agenda. This court will be available for any state that is unwilling or incapable of

13 The International Council on Human Rights was established in Geneva in 1998. It is a not-for-profit foundation working mainly on the topic of Human Rights and it conducts research on this field to understand the problems that organizations working on Human Rights face. For more information refer to the organizations' web page: http://www.ichrp.org/
judging the criminals responsible for committing human rights violations like genocide. Prosecutions for crimes against humanity for those members of the rebel groups will become easier.

There is also the use of universal jurisdiction which applies to all states. For certain universally accepted crimes, states must judge a criminal if they are within their territorial boundaries. No matter the nationality of the victim, race or age, the State is allowed to prosecute if the person is acting against the human rights and International Humanitarian Law.

Another option for that of punishment are the tribunals like the Tribunal for Yugoslavia, and the Tribunal set up for Rwanda after the genocide. One example for the case of Colombia is the regional tribunals for truth that the leader of the paramilitaries Carlos Castaño has recently proposed. This can be an example for the FARC and the ELN to understand and comprehend that they are violating human rights and international humanitarian law by using antipersonnel mines. The actors know that this is a violation to human rights, as the issue has been on the negotiation agendas accorded by the groups and the government. For example the ELN leader Francisco Galán stated in a speech that the ELN is willing to respect Human Rights and IHL in part by limiting the use of antipersonnel landmines. The proposed tribunals are called Regional Tribunals of Truth and they would be a way for the paramilitaries to tell the truth and to judge their acts regionally. In interview with Castaño by El Tiempo he stated that:

> it is desirable to have a tribunal of truth when all the actors in conflict seat down on the table. I am not saying that the regional truth commissions are not possible: with the Catholic Church, La Procuraduría, la Defensoría, so that the truth is known by those who have to know it* (Jefe Paramilitar Carlos Castaño propone tribunales regionales de la verdad, 2003).\(^{14}\)

This analogy is useful in the case of the FARC and the ELN. This can make the FARC and the ELN fear that something similar might happen to them and maybe give up on some of their war strategies such as the use of landmines. It is a

\(^{14}\) The Tribunal was just a proposal and it was never advanced. At this moment the paramilitaries are negotiating with the government in a municipality set up exclusively for the negotiations.
model that can be replicated, therefore it is a thoughtful teaching and example for other groups not willing to seat down and negotiate a peace process.

In a sense these instruments mentioned above can help enforce the law. These can also be a step towards making the armed groups aware of what can happen to them after the conflict is over, or even during conflict. Colombia is a member and signatory of the International Criminal Court; therefore law enforcement can be applied. Although I do not believe that the FARC and the ELN are going to stop using landmines even knowing about the existence of the International Criminal Court, at least it can make them aware of the type of crimes they are exercising and therefore it can be a way to make them think of the consequences they may face due to their actions.

3.3 Soft Core Approach

The soft core approach means or implies working in coordination with non-state actors in order to get to some type of agreement. This can be done either through dialogue, education campaigns and confidence building, not only to attack the problems during the conflict situation but also for the post-conflict period where non-state actors can help to rebuild the areas that were damaged or demine the areas where mines were used in the time of conflict.

This section of the chapter will focus broadly on Geneva Call’s work in Colombia and the success they have had in other countries. It will also focus on the issue of regional dialogues between organized communities and the non-state groups doing the damage.

3.3.1 Dialogue, Persuasion, Education and Confidence Building

In terms of persuasion sometimes the dialogue with the armed groups is very important, especially by independent actors such as NGOs and transnational networks. As Richard Price argues one of the successes of the Landmine Campaign to get the governments to sign the Ottawa Treaty was the creation of transnational networks in disseminating information (Price, 1998). The
same can be the case for the non-state actors. Geneva Call's main objective is to engage non-state actors "in respecting and adhering to humanitarian norms, starting with a landmine ban, thereby contributing to peace building" (Annual Report 2002, 2003: 5). The main mechanism used by this NGO is the "Deed of Commitment for Adherence to a Total Ban on Antipersonnel Mines and for Cooperation in Mine Action". With this agreement non-state actors agree to:

- a total prohibition on the use of AP mines and other victim-activated explosive devices under any circumstances; to undertake, to cooperate in, or to facilitate, programs to destroy stockpiles, to clear contaminated areas, to provide assistance to victims and to promote awareness programs; to facilitate the monitoring and verification of their commitments by Geneva Call; to ensure that the Ban is communicated to the rank and file (Annual Report 2003, 2003: 5).

Geneva Call has been working on trying to engage non-state actors in different countries of the world, even in countries that are still at war. Elisabeth Reusse-Decrey said that a general peace does not have to be a requirement in order to save some lives. Today, different non-state groups from Iraq, Burundi, Sudan, Somalia, India, Philippines, and Burma have committed through the deeds of agreement to stop the use of landmines. In Colombia they have started working with the ELN, as they agreed in a pilot zone free of mines. With the FARC on the other hand it has been a struggle to agree on any type of commitment.

In general the Deed of Commitment does not only mean that there is a signature to stop the use of landmines; there are some steps that follow. When a group agrees to comply with this type of document it accepts to:

- a total prohibition on the use, production, acquisition, transfer and stockpiling of AP mines and other victim-activated explosive devices, under any circumstances.

- undertake, to cooperate in, or to facilitate, programs to destroy stockpiles, clear mines, provide assistance to victims and promote awareness.

- allow and to cooperate in the monitoring and verification of their commitments by Geneva Call.

- issue the necessary orders to commanders and to the rank and file for the implementation and enforcement of their commitments.
• treat their commitment as one step or part of a broader commitment in principle to the ideal of humanitarian norms.15

This means that the agreement is not just a piece of paper. The members of the guerrilla groups participate in demining processes and should be willing to be monitored on their activities. There is a lot of work to be done after the agreements are signed. There has to be cooperation and assistance in locating mines. They should cooperate and help the verification missions, give orders to soldiers to stop using the mines, and there has to be a clear understanding that the engagement is for humanitarian reasons. Then, the groups should report to Geneva Call their progress and achievements in the case of landmines and should involve local and international webs for monitoring. The idea is also to construct trust between the different groups in conflict for a future peace negotiation process.

To my understanding, the key factor and most relevant one is that a particular topic becomes the reason for many organizations and civil society members to participate to bring a national harmonizing process or national peace agreements. In this sense these accords basically start at the local or regional and end at the national level.

On the other hand, these agreements might also be a key factor to make states sign the Ottawa Treaty. This was the case of the Sri Lankan government which maintained that if the LTTE (Liberation Tigers of Tamil Eelam, the main guerrilla group in this country) complied with a deed of agreement on a ban on antipersonnel mines, the government would sign and ratify the Ottawa Treaty. According to Elisabeth Reusse-Decrey this would be a great achievement as Sri Lanka's territory is greatly affected by landmines since the government uses the mines to protect themselves from this guerrilla group which also uses them.

3.4 Two Examples of Geneva Call's work: The Philippines and Burma

Approximately 35-40 non-state actors have agreed on a mine ban by signing the Deeds of Commitment. The Philippines and Burma are two examples

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15 This information is taken directly Geneva's Call web page: http://www.genevacall.org/home.htm
where Geneva Call has been able to accomplish its main objective: non-state actors complying with a ban on landmines.

In the Philippines the Moro Islamic Liberation Front (MILF) has agreed to the commitment. How could this success be replicated in Colombia? To answer this question it is important to understand the success in the Philippines and then apply it to the Colombian Case. The MILF signed the Deed of Commitment in Mindanao on April 7 of 2002. After discussing human rights issues with the MILF, the mission that was sent to the Philippines to verify the signing of the agreement, also got a comprehensible idea on what assistance the group needed to implement the measures efficiently and effectively. Next both Geneva Call and the MILF agreed on approaching the issue further and therefore other points were agreed for future assistance. Issues such as “implementing guidelines, verification mechanism, mine clearance and various trainings” (Report of the Geneva Call Mission to the Moro Islamic Liberation Front (MILF) in Central Mindanao, 2002:1) were the ones agreed in the Deed of Commitment. This can also be used as a guideline to make the peace negotiation process easily manageable. As the report expresses, “some of these measures would tie in with mechanisms for the peace process and the ceasefire implementation involving the Philippine government and the MILF” (Report of the Geneva Call Mission to the Moro Islamic Liberation Front (MILF) in Central Mindanao, 2002:1). So, the positive aspect is that not only is a signature on paper, but a process as a whole since it portends to go further. With the verification mechanisms it means that the MILF is willing to accept some kind of monitoring in order for Geneva Call to verify that they are actually behaving as the Deed states.

Indeed, the process to conclude the signing of the agreement was a success, requiring a lot of work, patience and persistence. It took at least one year to prepare the mission to be able to talk with the group and be seated in a roundtable and have a dialogue with them. One of the most important things when approaching an armed group is to have information about it such as: who are its leaders? Where does it get support from? What are the strategies? How
many people do they have? From the report the sense is that the members of the mission had all this information in place and therefore, the mission ended up in the signing of the agreement.

The two most significant achievements of this mission were, 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 affair and for peace talks" (Report of the Geneva Call Mission to the Moro Islamic Liberation Front (MILF) in Central Mindanao, 2002: 18). Secondly, in this new Deed of Commitment signed by the MILF, a paragraph referring to Human Rights is included. This reference can be seen "as applying to all parties to armed conflict, and the acknowledgment of the 1997 Ottawa Treaty norm of a total ban on APMs as a step toward the total eradication of landmines (Report of the Geneva Call Mission to the Moro Islamic Liberation Front (MILF) in Central Mindanao, 2002: 18). This is a great success for Human Rights and Humanitarian Law in general because it is a demonstration that non-state actors can also comply with the different international norms such as the Ottawa Treaty.

Another useful example is Geneva Call’s work in Burma. Even though there are some differences, the case of Burma/Myanmar, is one that can be assimilated to that of Colombia. Burma is one of the countries in which rebel groups still use landmines. Due to Burma’s long civil war, political armed organizations exist within the borders committing different types of crimes. One of them is to lay mines in the border with Thailand to protect their territory and the criminal activities along this border, such as drug trafficking. Burma’s situation is so complex, that “at least fifteen ethnic and rebel armed groups are believed to have used antipersonnel mines recently” (Landmine Monitor Report, 2003). The main groups using this type of artifacts are the Pao People’s Liberation Front, All Burma Muslim Union, United Wa State National Army, Wa National Army, Rohingya Solidarity Organization, Chin National Army, Shan State Army, Karenni Army, Karen National Liberation Army, Democratic Karen Buddhist Army, All Burma Students Democratic Front, People’s Defence Forces, Myeik-Dawei United Front and New Most State party (NMSP). It is believed that the latter
group started using landmines in 2002 for the first time (Landmine Monitor, 2003). So the situation in Burma does not seem to be stopping, and new groups are starting to use landmines.

The other problem with landmines in Burma is that it is believed that the SPDC (State Peace and Development Council) the current military junta that governs the country, has used landmines and permits the importation of them from China, Israel, and the United States.

the SPDC has increased production of anti-personnel landmines and produces at least three types: MM1, MM2, and Claymore-type mines. Although the SPDC is not known to export landmines, mines from China, Israel, Italy, Russia, and the United States have been found planted inside Burma, indicating their past or present importation (Hynes, 2003: 17).

Moreover the situation in Burma is astonishing as “it is currently second (in Asia) only to Afghanistan in the number of new landmine victims, surpassing even Cambodia” (Haynes, 2003: 17). More so, 9 of its 14 states are said to have landmines in the fields. Currently there are no demining programs in Burma, and the government does not have any rehabilitation programs for the victims, and they have to pay for their own medical costs. (Hynes, 2003:17).

Burma has a poor record of Human Rights Violations as well as Colombia. From displaced populations to extra judicial killings, the human rights situation in Burma is not much better than the one in Colombia. According to Patricia Hynes it is very hard to establish the number of internally displaced persons (IDPs) in Burma due to the restricted access for researchers in this country. It is known that there are IDPs and that most of them end up fleeing to other countries like Bangladesh which border Burma (Hynes, 2003). For example in the Thailand-Burma border there are four groups that have flown to Thailand as refugees and the Thai government does not consider some of these people as refugees. Some have been able to be attended in refugee camps but many have not been able to have access to these (Hynes, 2003).

The major difference between Burma and Colombia is that an authoritarian government rules Burma and many groups feel repressed and are created in opposition to the military junta ruling the government. The FARC and
the ELN in Colombia seek control of territory but is not necessarily an issue of repression by the government. In Colombia, the President is democratically elected and the people choose their representatives in Congress. Burma is considered by many to have an authoritarian government under which many groups are repressed and therefore decide to join insurgent groups. Most of the repression is due for religious purposes for example in the Arakan state is mainly inhabited by Muslims:

Most Muslims within Burma are not considered to be citizens under Burma’s strict citizenship law. They are unable to obtain national identify cards and as a result find it difficult to travel, get an education, or conduct business. The majority (particularly outside Arakan state) do not own land but work as traders or day labourers. There is a complete ban on the building of any new mosque and on repairs to the exterior of any existing mosque (Hynes, 2003: 15).

Certainly in Colombia the cause of insurgent groups is not due to religious or ethnic repression reasons but because of the few opportunities that are available for people in the rural area to be able to work. Many of them are forcefully recruited and if they do not join the guerrilla lines they get threatened, or they are told that the guerrilla will kill the family and take away their land where they grow the crops or where they have their surveillance activity. Burma has more groups than Colombia operating in the territory, however the similarity is based that is not only two groups fighting over certain areas, but numerous groups fighting to achieve specific objectives. The most relevant similarity is that many groups in Colombia as well as Burma fabricate their own landmines making them a cheap weapon to do war.

The other important fact is that some groups in Burma finance their insurgency activity through the illicit drug business. As explained in a previous section the FARC and other insurgencies finance their criminal activity through the illicit drug market. In Burma the government is involved in the narcotic business; indeed the military armed forces combine with the rebel groups to profit from this “black market”. Myanmar has been involved in many illegal crimes. One of the few governments in the world that still uses landmines is Myanmar to commit crimes against its own population. The military has compliance with the
guerrilla groups because the drug trade among the Thailand border produces many profits to the drug dealers and producers. This has been a main problem in this border and therefore the mountainous regions of Burma are mined to protect the drug production and the clandestine drug operations. Therefore, the military forces also comply with the mining of the different illegal plantations since they benefit from such. This is the reason why “the military and rebels bury landmines in mountainous jungles as defensive and offensive weapons, making the countryside treacherous for everyone, including civilians” (Ehrlick, 2003). Another similarity is that in Burma it is believed that the government does extensive use of these “hidden killers” as well as the Colombian government in some occasions. Many times the Burmese government makes the citizens walk on top of the mine fields to use them as demining instruments. Burmese military troops have laid landmines all along Burmese territory and have repressed the population using indiscriminate techniques. As the Landmines Monitor Report explains, “Myanmar’s military forces have used landmines extensively throughout the long running civil war” (Landmine Monitor, 2003). But is not only the issue of planting mines that is affecting the population, it is also that “Myanmar’s military is killing people by forcing them to walk across minefields to reveal where explosives are buried” (Ehrlick, 2003). They have also produced different types of mines.

In contrast, in Colombia the government claims that it has started to destroy all the stockpiled mines and that it has stopped using them even for defensive purposes. Colombia is a signatory to the Ottawa Treaty, while the Burmese government has not complied with the treaty. What Geneva Call argues is that maybe by engaging two of the insurgent groups the government might accede to sign the Ottawa Treaty and start finding a solution to the landmine

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16 This is a deduction from the author of this paper. The reference in this case is that of Colombia, where the guerrilla groups bury landmines in order to protect their main illicit coca fields so that they are not destroyed and no one can intervene in this type of illegal activities. The case of Burma might be the same and since the military complies with the UWA guerrilla to get benefits from the drug trade, then it is possible that they help mine the areas where there are planting these illegal crops. This is what I mean by governmental compliance with the different guerrilla groups.
problem.

In both countries the conflict is still taking place and Geneva Call has been able to engage two groups through the Deed of Commitment in Burma. If Geneva Call has achieved this result at least, it might be possible to achieve it in Colombia as the situation is very similar albeit there are some differences between the two countries. Even in Colombia the government has signed the Ottawa treaty and this might be a sign for the groups to engage with a landmine ban. It is easier to get some groups to comply than others even those operating in the same internal conflict.

After focusing on the situations of Burma and Colombia and taking into account the similarities, it is important to analyze the mission of Geneva Call in Burma to understand how it can be replicated in Colombia. After four years of dialogue the Arakan Rohingya National Organization (ARNO) and National Party of Arakan (NUPA) have decided to sign the Deed of Commitment in Burma. Both leaders have understood that landmines are killing thousands of civilians, and in Burma's situation the victims do not have access to medical attention. The Presidents of both groups said "the human tragedies caused by mine use compelled them to sign on to the mine ban despite the Burmese government's continued use" (Geneva Call, 2004:3). The ARNO and NUPA, the two main ethnic groups in the terrain of Arakan State bordering Bangladesh, operate in the western border. "NUPA, the largest Rakhaing insurgency group, largely Buddhist, and ARNO, representing the Rohgya/Burmese Muslims, joined forces under the Arakan Indenpendence Alliance (AIA)" (Geneva Call, 2004: 3) in October of 2000. What comes next for Geneva Call after four years of dialogue negotiations is to keep working in Burma to engage other groups to a landmine ban and to continue monitoring activities towards the two groups that have signed the Deed of Commitment." According to a Geneva Call's Newsletter "Geneva Call and its local partners will continue advocacy efforts aimed towards a total ban on antipersonnel mines among the Burmese groups and efforts to ensure that commitments made are implemented" (Geneva Call, 2004: 30).

After briefly analyzing the mission of Geneva Call in Mindanao and Burma,
it is important to ask if this would succeed in Colombia and how? In Colombia, Geneva Call has made direct contacts with the armed groups. They have started to organize regional workshops to collect data and information on how Antipersonnel Mines affect the different communities in the country as an aim to construct material for information purposes. Dialogues with non-state actors have taken place to explain the goals of Geneva Call allowing mine-risk education processes. To start, the idea is to work in pilot zones which are areas selected specifically to mark the mine fields, demine them and at the same time construct some type of dialogue and confidentiality between the parties. The ELN as explained above has agreed on a pilot zone in certain municipalities south of the Bolívar department.

Geneva Call mission went to Colombia in early 2003 and the ELN supported the idea of "setting up a pilot 'mine action zone' in an area patrolled by the ELN" (Bringing Humanitarian Norms to New Frontiers, 2003). Additionally, Geneva Call has started working with the ELN in a pilot mine free zone. They went to talk to the leaders of this group in the jail in which they are imprisoned, and they agreed to implement a pilot program in one the regions of Colombia. Geneva Call missionaries to Colombia got the approval of Francisco Santos, Vice President of the country, to talk to the leaders of the group. This is significant because it shows that the Colombian government is also supporting any kind of legal action in order for these groups to comply with the Treaty.

Geneva Call has not been able to dialogue with the FARC since they are militarily stronger than the ELN. But efforts are being concentrated in Colombia to get these two groups to comply with the Ottawa Treaty. In light of the case of the MILF and the two Burmese groups it would likely be useful if Geneva Call continued in its mission. As one report of the human rights council states, when one wants to use dialogue with non-state actors it should be seen as a process and not as a short time issue. Furthermore if there has been progress with the ELN there can be progress with the FARC since "non state actors may be linked by ideological or religious vision. Landmine renunciation by one such group could trigger renunciations from others with a similar vision" (Working Group of
probably the process and approach with the ELN was easier because as Camilo Echandía argues "the ELN has its military power minimized, a more restrictive influence each time over the population and territory, and it is being fenced by the Military and paramilitary groups and it is trying to maintain its surveillance" (Echandía, 2002:9). So, as this is true they probably want to have the acceptance of the population and the recognition as a group that respects Human Rights and International Humanitarian Law. With the experience in Burma the most important is that at least one of the part in conflict recognizes that landmines cause more damage than benefits and that a ban on landmines in totally necessary due to the damage that they cause to civilian populations. In Burma once the leaders recognized that landmines were killing civilians and that they had no access to any type of assistance they realized that a ban on landmines was necessary. One of the leaders of these groups in Burma said "many people have been injured and killed as a result of these mines, the mine areas are not marked and most victims have no access to treatment or assistance" (Geneva Call, 2004: 3). Once this is done the process to engage non-state actors becomes easier and starts making progress more rapidly.

3.5 Engaging non-state actors in Colombia

For the case of Colombia, Geneva Call has started working with the ELN and local populations so that members of the groups understand the problem of landmines and the consequences that they can pose to a country in conflict. Specifically, the main objectives of the Program in Colombia are to:

- Establish a broad support base for the total prohibition of AP mines that can be utilized to persuade non-state actors to stop using the mines and create a compromise of prohibiting them.

- End the use of AP mines by the non-state actors and prevent the future use of landmines by other non-state actors who have not used them.

- Create a propitious environment for action against mines in the affected zones, while international action generates support for program
implementation in areas where the non-state actors operate.

- Contribute to empower and support the capacities of civil society so that it can defend the AP mine prohibition, and promote the development of a secure environment.

- Assure a compromise from the non-state actors for a total prohibition of AP mines, through the signature of the Deed of Commitment of Geneva Call.

- Raise awareness and inform civil society and non-state actors about the indiscriminate nature of AP mines, the local impact, the global movement for their prohibition and Geneva Call’s mechanisms for the non-state actors to be involved in their prohibition.

- Construct the capacity of civil society and local communities in the affected zones, so that they can advocate for a report and monitoring of local humanitarian agreements with non-state actors, starting with the prohibition of AP mines.

- Explore among the cooperators, through an enquiry, the strategies and limitations to comprehend the non-state actors’ interest with mine prohibition.

- Establish the dialogues that are taking place with the leaders of the local, regional and national non-state actors to encourage them to take concrete measures for the prohibition of AP mines.

- Advocate for the implementation of an education program for risk prevention caused by AP mines, and for victim assistance that benefits affected communities in areas influenced by non-state actors.

- Create more than one pilot zone to advance in the action against mines, with the agreement and equal participation of all the actors involved (non-state actors, local communities, civil society, and all levels of government) who will directly benefit the local population\(^\text{17}\).

Furthermore some specific activities should take place in order to accomplish the objectives. These activities relate to community and local work as well as to involve the non-state actors in the process of the prohibition of AP mines. The activities are as follows:

\(^{17}\) This information was taken directly from Geneva Call, "Actores Armados No Estatales", Publication No. 001, June 2004.
• Organize a national event in Bogotá (Colombia's capital) with the ICRC (International Committee of the Red Cross), UN agencies, national and international NGOs that work in the topic of mines, Human Rights, and IHL, and topics related with peace construction. This conference will also include interested governments and community leaders that have intended or achieved local agreements with non-state actors. The main objectives of this encounter will be: explore and find new paths to assure humanitarian agreements, while the necessary information for these agreements to be successful is consolidated. The existent documentation and analysis in this area will be useful to guide Geneva Call's work with non-state actors for the prohibition of AP mines.

• Organize a national encounter with the affected indigenous communities and with the persons in displaced conditions to evaluate and explore how their specific preoccupations can be integrated with Geneva Call's program in Colombia. It is important to underline 80% of the displaced indigenous population is due to AP mines. The presence of these mines makes it difficult for the displaced population to return to their land. These communities should select representatives within such so that they assist this national encounter.

• Organize a series of workshops with the affected communities with the objective to inform them about Geneva Call's program in Colombia, show how mines affect their communities and jointly explore which are the best strategies for the non-state actors' local leaders towards a total prohibition on the use of landmines.

• Initiate and maintain the dialogues, with support of the local collaborators, with the non-state actors to explain the goals of Geneva Call and encourage them to take concrete steps towards the prohibition of mines. The first step is to avoid the indiscriminate use of AP mines and obtain agreements between local communities and combatants, allowing the progress of the risk prevention education program in the affected areas to facilitate the creation of pilot zones for the action against AP mines.

• Depending on the first pilot zone, in common agreement with local communities, non-state actors leaders and the Colombian government, identify possible pilot zones for the action against mines for an eventual form of total prohibition of these weapons in Colombia. The selection criteria of the pilot zones will be based on having previously achieved other humanitarian agreements with non-state actors' leaders successfully.

• Once the pilot zones have been identified, Geneva Call will start working with all the participants to assure that the actions against mines start. For example: identifying and marking the mine fields, putting in place
humanitarian demining in priority zones where an accord has already been reach among the members of the program, initiating the education program and assuring that AP mines will not be used again to generate trust in the development of programs within the community.

- Promote periodic meetings between the Observatory of Antipersonnel Mines, the High Commissioner for Peace, local collaborators and Geneva Call with the purpose of exchanging information and points of view.\(^{18}\)

Due to the similarity in certain aspects between Burma and Colombia it is not totally inaccurate to speculate that in Colombia the same process can take place. In Colombia the most important issue at the moment is to make the leaders of the FARC understand that landmines cause more damage and that it is necessary to come up with a ban of these weapons for the benefits of all groups, local communities, military forces, and their own men. This can be done through sensitivity campaigns, mine risk education programs, and workshops that integrate the local population the armed groups, and members of NGOs.

The political will has to exist to come up with a ban on landmines but this is not achieved immediately. As in Burma and in the Philippines it requires first having knowledge about the rebel groups' organization, what their aims are and its composition. Not all the armed groups are the same, some are stronger, some seek separation, some seek control of territory, and they do not all operate the same way. Once this is established, as Geneva Call did with the rebel groups in Burma and the Philippines - and in a sense with the ELN - a process to a landmine ban can start.

How can the dialogue approach affect the leaders in changing their way of thinking to respect human rights? If the goal is not achieved "at least it promotes awareness in armed groups of what is expected of them" (Ends & means: Human Rights Approaches to Armed Groups: 48). But it can also generate and internal debate within the rebel group, about important issues such as "what is right and wrong, and about what steps might have to be taken to reform" (Ibid).

\(^{18}\) This information was taken directly from Geneva Call, "Actores Armados No Estatales", Publication No. 001, June 2004.
This is the main reason of why the process of dialogue is a process rather than a one step event.

When the dialogue approach is taking place, it is important to dialogue also with the local populations if they are the ones giving the support to the group whether it is voluntary or from fear. As one report argues, “wherever possible, the Working Group's approach to a non-state actor will be developed in consultation with the communities affected” (Working Group of National Campaigns, 1998-1999: 8). This way it is easier to know more about the group's constituency and it is easy to understand what the group really wants. This type of direct dialogue has had positive results in some countries. This form of dialogue has saved many lives - released hostages, among others. This is why independence and neutrality is so important so that the population and the rebel groups feel more comfortable talking and explaining certain things. Religious leaders are usually well accepted and usually play a major role in opening negotiations (Ends & means: Human Rights Approaches to Armed Groups, 2000).

3.5.1 Regional Approaches to engage non-state actors

The previous section brings me to analyze more in depth how the regional dialogues are important, especially in countries where the state is unable or unwilling to protect its citizens and the territory. In countries where the institutions are fragile and their legitimacy among the population is low, where resources are few and the state does not have the capacity to have a presence in many areas of the territory, the regional and local initiatives are very important. Colombia is considered a weak state, as its institutions have low credibility among the citizens and not enough capacities to have total control of the territory. Some regional and local initiatives have been successful in some cases with help of the international community, in others with support from the government, and others with no support at all.

In Colombia, this direct dialogue has been tried especially with the previous government and the peace process which failed. However, dialogue is
rarely done with the communities supporting the armed groups and therefore maybe that is what is missing. Efforts have started in regions affected by violence, and where the issue of antipersonnel mines is a problem. The Peace and Development Programs (Programas de Desarrollo y Paz)\textsuperscript{19} put forward by Alvaro Uribe with the support of the World Bank and the United Nations Development Program (UNDP) is just one example of an effort to work in coordination with the communities affected by violence. One of the main points of the project is antipersonnel landmines in the region of Sur de Bolívar and other neighboring municipalities. This project started recently and two programs have started including the topic of antipersonnel mines. The Church is much involved in this process, since they are neutral and do not have an identified position which is very beneficial for the process. On the other hand, the problem of landmines was starting to be put in the Regional Programs such as the peace laboratories carried out in different regions. Two programs have started including the topic in the agenda CORDEPAZ and Montes de María. With the help of the United Nations Development Program, the issue of landmines has been included. Its main objective is to work with the communities in areas affected by landmines. The focus is mainly “to give support and assistance to strengthen the technical and gesture capacity of the governmental instances at a local and national level. Including the problem of antipersonnel mines in the national and local development agenda reflects a priority compromise” ("Que es BCPR?” 2001).

The other way for regional dialogue is when organized communities, through their own initiative, talk to the non-state actors themselves. This takes place in areas, where there is a total absence from the State and its military

\textsuperscript{19} These programs are regional initiatives that started with the support of civil society organizations. Now, with help of the government they have started to work in many areas of the country. They have five principles under which they operate respect to life and dignity of the human person, exercise participative democracy, and the integral, sustainable, equitable and solidarity human development. They also have projects in different topic areas such as: sustainable environmental management, productive processes, institutional and social organizations strengthening, life, justice and peace, culture and knowledge, education, health and housing. The humanitarian work adds up with development projects within the whole program. These programs usually take place in areas where levels of conflict and violence is very high and in poor regions of the country.
forces. When violence is displacing a population, when people see their lives at risk and they see no other solution, they may seek to talk to the groups and come to local agreements. This was the case in Micoahumado a municipality south of the Bolivar Department and in a region of the department of Cauca. In Micoahumado in 2002 the paramilitaries made four incursions into the town, and then a war started between the guerrillas and the paramilitaries. This local conflict resulted in groups using AP mines, affecting a whole local population of the area. Leaders of the community with the consent of other members decided to approach the ELN leaders in the area. After the talks and compromises the ELN decided to stop using mines, demined the area that was affected and the municipality was at peace for a short period of time.

In Cauca, mainly the indigenous community was affected by the use of landmines and violent crimes in general. Seven hundred and twenty two indigenous people have resisted the FARC and have been able to prevent criminal acts. In this case the local governors are the ones in charge of mediating with the Colombian United Paramilitaries and the FARC. Such is the involvement of these non-state groups in the area that on April 16 they found that “Resguardo Cañaveral” (the area where the indigenous groups Embera inhabit) was totally mined. Currently, the local governments and gobiernos locales como amigos (local governments as friends), are holding informal negotiations with the FARC searching that by joining efforts, the FARC and local communities can get involved in a demining process. This is yet to see success but efforts are being made.

Colombia can replicate El Salvador’s example as a way of involving non-state actors in human rights agreement processes even in conflict. According to an ex-combatant of the FMLN (Farabundo Martí National Liberation Front, main guerrilla group which operated in EL Salvador), there were fruitful local experiences that made the guerrillas and communities come to agreements. First was the establishment of danger zones where transit to civilians was prohibited. Second, the guerrillas agreed to stop the use of mines in agricultural zones. Third, local agreements were made and in 1990, before the peace negotiations,
the San José agreement was signed. The idea should be to multiply local pacts with support of the State and the NGOs. As seen local communities in Colombia have tried to come to agreements with the different non-state groups, but unfortunately in some cases they do not have the support and consent from the state itself.\textsuperscript{20}

The Colombian government should support these initiatives and it has started to do it by including an interesting instrument in Law 759 of 2002 that has been called "Humanitarian Missions". These were created "to protect the fundamental rights to life and personal integrity of civil population in Colombian territory; for actions with antipersonnel mines the Government will integrate Humanitarian missions for fact verification and to formulate recommendations" (Ley 759: 2002). The missions have the following responsibilities:

1. Effectuate visits to mine affected places.

2. To verify antipersonnel mine existence in the visited area through inspections and interviews.

3. Request reports to the civil, military and police local authorities about the facts that motivate the Mission.

4. Evaluate the risk that the population is subjected too in the place visited.

5. Request the necessary technical advisory for the achievement of its functions

6. Formulate recommendations and observations so that the State adopts all the necessary measures, as soon as possible, so that the detected antipersonnel mines have the marked perimeter and isolate them through fences or other mediums until its destruction takes place. Effective information dissemination processes should take place that prevent the occurrence of accidents and incidents in the region.

7. As a preventive measure, give precise and serious information about the situation in the verification place and alert the population at risk.

8. Promote, in a coordinated way other necessary humanitarian actions.

\textsuperscript{20} Mijango, Raul. Speech given at a conference in Bogota, Colombia, June 4-5, 2005.
9. Do a follow up to the fulfillment of the recommendation of the Mission.

10. Once the mission ends and after verification of the fulfillment of the recommendations, summit report to the National Intersectorial Committee for the Action Against Antipersonnel Mines, Defensor del Pueblo and the Procuraduría General de la Nación (Ley 759, 2002).

These missions can have great support from the local communities as it is very important to work in coordination with them. The purpose is, to start with individual solutions and then create demonstrative effects that lead to solidarity networks so that trust and confidentiality is created among the parts. Once this confidentiality is established the idea is to generate a kind of cohabitation between the different actors involved, as "in the armed conflicts or in civil wars the groups that are fighting generally have problems to initiate by themselves negotiation processes that culminate in agreements. This is explained due to the incapacity to generate confidence through demonstrative actions to come to agreements" (Wills, 2003:28). Therefore it is very important to generate that kind of trust to carry on any type of negotiation.

When there is trust and confidentiality it is easier to work in a coordinated manner. This will create regional spaces for dialogue and even further for national agreements between the parts. Once there is cohabitation among the people and one common goal to be achieved it is easier to negotiate. This is also necessary for the post-conflict resolution process. As Elisabeth Reusse argues there has to be confidentiality among the parts for a negotiation process, and in many cases it has to start from the more local environments to a national one. In Colombia in the case of landmines one has to go from a particular process to a general one, since regional and local accords can signify broader agreements. This leads to the next section and is that of the post-conflict resolution mechanisms.

Even though Colombia is still in a conflict situation it is important to start thinking about a post-conflict resolution process since it might be possible that peace negotiations are signed. A process has started with the paramilitaries, and they have set up a 360 km² zone in Santafe de Rialito, Córdoba at the northern
part of the country for the negotiation process. It is about time to think about the paramilitaries' peace process which was installed the 1st of July of 2004. Not only are governmental members, paramilitary leaders, Church associates, and members from international organizations such as the OAS involved in the process, but also victims that have been injured by landmines, or that some way or another have been affected by other type of crime. As the negotiation tables were set up, Salvatore Mancuso (one of the leaders of the paramilitaries) mentioned the five points on the agenda: 1) Human Rights, International Humanitarian Law, redefinition and verification of a cessation of hostilities; 2) Implementation and application of democratic security integral policies in regions influenced by the Peasant Autodefensas (Paramilitaries); 3) Definition, location and ruling of the concentration zones; 4) Eradication and substitution of illicit drug plantations in zones influenced by the Peasant Autodefensas; 5) Legal security, civil and political rights, and reincorporation of guarantees into civil life (Arranca el pulso, 2004). Finally, according to Revista Semana, "the government has the enormous responsibility, not only to demobilize the AUC (Autodefensas Unidas de Colombia), but also that there is a just agreement with society so that the process lasts long" (Arranca el pulso: 2004). And the most important is that this dialogue can be used to come to an agreement with other groups in conflict. "If this dialogue results OK not only it will stop a war machinery of 15,000 or more men, but it will strengthen Colombian Military Forces and the legitimacy of the Democratic state will expand. Furthermore, without paramilitaries a central obstacle will be removed in a future negotiation with the FARC" (Arranca el pulso, 2004). This is why thinking on the reconstruction process is important since some groups and instances of government are taking huge steps. This is the topic for the next section.

3.6 Useful Instruments for the Post-Conflict Period

So far I have analyzed instruments that can be used to engage non-state actors when a conflict is taking place. No less important are the mechanisms that exist to engage the armed groups when there is an agreement on the table to
negotiate. Post-conflict preparation is very important when a conflict is still progressing. Peace construction is a long process and it has to start in the middle of war. Guatemala and El Salvador are relevant examples of "how the peace construction activity yields profits when it initiates in the middle of war (Rettberg, 2002: xx). In the case of landmines specifically some instruments can be used during the negotiation and after an agreement has been made. The former section integrates with the actual one as things are started to be done for post-conflict resolution.

The first mechanism when there is a negotiation process is to put the issue of landmines on the agenda as a topic to be discussed between the parts. In Colombia, in the 1999 peace negotiations with the FARC, the peace agenda proposed by Andrés Pastrana's government consisted of twelve important points each one with its own components. One was specifically titled "Agreements about International Humanitarian Law." This included non-involvement of children in the conflict, antipersonnel mines, respect towards civil population, and the validity of international norms. So, the issue of landmines was there, but I would suggest that it is put as a general reference and not as a component of another general point. As Rettberg argues,

the costs that the mines impose, - mutilation, death and access, communication, supply of goods and resources difficulties in mined zones - does not only affect the combatants, but increasingly the civil population that inhabits mine zones. Therefore, removal of mines to stop new plantations, constitutes one of the principal post conflict challenges (Rettberg, 2002: 22).

It is crucial to negotiate the antipersonnel mine issue with the rebels, since they are the ones who plant them and know where they are, or at least have more

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21 This peace negotiation process started in 1999. Andrés Pastrana's administration set up a demilitarized zone where the governmental military forces had to leave the area. This zone was set up to hold the peace talks and it was an area of 42,000 km². The FARC leaders entered the zone and had control of this area in the southern part of Colombia. Negotiations started to take place on 6th of May of 1999 when the agenda was signed by the representatives of the government as well as the guerrilla. These agreements were titled "Agenda Común hacia una Nueva Colombia". Signed in La Machaca a municipality of the Department of Caquetá. The peace talks are broken by the government on January of 2001, due to various indiscriminate acts that the FARC had committed during the whole process, violating human rights, and the IHL. The military forces took control 42,000Km² area again and the FARC members left the demilitarized zone immediately.
information than the members of government and the military forces.

Once an agreement is reached, another important instrument concerning post-conflict activity is demining. Since landmines are a weapon that kill even after the conflict has come to a conclusion, it is highly necessary to start demining processes immediately. The process in El Salvador can be used as an example. El Salvador, during the 80s lived through a civil war, and as many argue, similar to that of Colombia. The FMLN (Farabundo Martí National Liberation Front) main guerrilla group operated in great part of the territory of El Salvador in opposition to certain polices that were carried out by the government. In January of 1992 the civil war ended in El Salvador with the signing of the Chapultepec peace agreements. This 12-year long conflict left 75,000 people killed and more than 30,000 teenagers and children disabled. The use of landmines during this internal war was not an exception; the help of many NGOs and international organizations to be able to declare landmine use over in El Salvador were essential in the process. But, more importantly, the inclusion of ex-combatants in the guerrilla lines was the essential characteristic of the demining process. According to an ex-combatant of the FMLN and Director of the Demining National Plan of El Salvador, cleaning of landmines were on the peace agenda and one should take advantage to the knowledge of the actors in the conflict. In El Salvador ex-militants were included in the demining programs since they had knowledge of where the mines were planted. These actors should be involved in signaling, marking, and locating processes which come previous to the destruction of the mines itself. Due to the activity and the financial support received by El Salvador from the OAS Demining Program for the Americas, the UN, and donating countries like Belgium, El Salvador is considered today 97% free of mines.

Currently in Colombia there is a reinsertion program for those who decide to leave their arms and return back to civil life. According to Revista Semana “to do preventive demining the information given by the demobilized is vital since they can at least contribute to unearth the ones they laid” (Objetivo: Mutilar, 2004:235). One of the combatants who decided to leave the guerrilla lines says
"the minister of defense works so that the ex-guerrilla members work and contribute with the reparation. I would certainly love to work in that" (Objetivo: Mutilar, 2004: 235). This type of program should be advanced during conflict, but also in a post-conflict situation. Nonetheless it is productive to start gathering information now, so that in the post-conflict some work has been accomplished and it will not take as long.

One last instrument for the post-conflict situation is to count on the aid and support, not only of national NGOs and governmental institutions, but also the international community. In terms of the demining process, there are many NGOs working on this issue to help vulnerable populations. The OAS, for example has demining programs in Central America. The UN sent a mission ONUSAL (UN Mission to El Salvador) after the peace negotiations were signed. This mission served as a monitoring organism for verification of the agreements. The OAS created a demining program for the Americas called PADCA and they were involved in the process. International NGOs and national NGOs were also involved trying to make El Salvador a mine-free country.

As explained before in a brief manner since this is not the main analysis of the project, there are instruments to engage non-state actors while a country is still at war. On the other hand, one cannot leave aside the issue of the post-conflict, and how to reintegrate the former combatants into civilian life. These are all issues that have to be thought about and it is necessary to try to look at international experiences. In this case El Salvador is a good example to understand what can be done in Colombia in case a peace negotiation process takes place successfully.
Chapter IV: Conclusions and Recommendations

Constructivism might explain one of the reasons for which states comply with norms and agree to follow them. States comply with norms or agree to engage with a certain norm for three main reasons: 1) Because it is convenient and is going to have some kind of benefit; 2) Because they are forced to do so through pressure from others, for example a superpower 3) Because as constructivists would argue the construction of norms comes from social values and from a common identity and beliefs. As constructivism might be able to explain why states comply with norms and adhere to them, when thinking about non-state actors as the object of study, this theory is not able to explain why actors comply with norms in certain cases. In the contrary I would argue that in the case of some non-state actors, they comply because they find themselves losing political power and/or support from the local population, and the way to gain support from the international community or at least good reputation is by adhering or complying with norms. Therefore it is not an issue of ideas and believes that bounds them towards one common cause it is an issue of power and surveillance in a national context of a country. The case of Burma can be explained through constructivism, but Colombia's case, does not seem to fit in the basic concepts of this theory. It also depends on the composition of the group and their goals.

The case of Burma can be explained through constructivism being that the leaders of the group understood that landmines were doing damage and therefore a common belief was out there and Geneva Call was able to transmit this idea to the leaders of the groups. Many times non-state actors seem to feel no pressure, at least in Colombia to respect Human Rights and International Humanitarian Law. Due to the irregular war and its characteristics, the armed groups do not have the need to show any kind of results to anybody, not to the international community, not to the UN, not to any NGO. In the case of the FARC, this group does not care about what NGOs such as Amnesty
International, or Human Rights Watch have to say about them. The last intention to negotiate and all the crimes they have committed throughout the years reflect this fact. For example in the demilitarized zone where the negotiations took place during the previous governmental period there are many more landmines than before this process initiated. Since the beginning of peace negotiations with the FARC in 1998, some incidents made the former President Andres Pastrana to finalize the process. A FARC guerrilla man kidnapped an airplane and he forced the plane to land in one of the municipalities that were set for the peace negotiations. The government concluded that this type of act "could signify that the zone was being utilized as a refugee camp for delinquents" (Los Tropiezos, 2001: 1-3). Kidnappings and killings of congressmen also occurred during this negotiation period; therefore one can conclude that the FARC had no will to negotiate and do not pay attention to the accusations made by international community, other governments or NGOs. The leaders of the FARC have said in many occasions that they will not negotiate with the current government of President Alvaro Uribe. Uribe's policy is to use as much military force as possible to weaken the financial and military sources of the FARC in order to make the leaders to seat and negotiate.

This shows that constructivism might not be able to explain how one could engage a group like the FARC where for instance a common knowledge of the issue has to be established and then a common objective has to be imposed in the leaders' way of thinking in order to achieve a common goal to a ban on landmines. It requires social construction processes, as well as to create certain common beliefs among the leaders and to share the same conception as Geneva Call for the group to agree upon a ban on landmines. With all the failures maybe the dialogue approach is not the way to go about and start a process for the FARC. First and most important of all the FARC leaders have to show political will to negotiate.

The case of the ELN is somewhat different, but constructivism might not really explain the ELN's case. The ELN at this moment needs some kind of recognition among different countries, NGOs and local population due to their
loss of power, strength and lack of capacity to gain the recognition and respect from the local population. This makes it less difficult for Geneva Call to try to engage them with a ban on landmines. That is why maybe Geneva call has made more progress with the ELN than with the FARC. As the theory of conflict resolution states when a rebel group starts loosing its strength and power and its resources to maintain themselves in war are cut, then it is the right time for the government, NGOs, and international agents to challenge the group to a negotiation with clear points settled to put on the table. As Laura Wills argues

> When the conflict situation is prolonged too much, the parts fighting start to suffer exhaustion that eventually will lead to a loss of capacity to reach victory over the opponent. Such exhaustion rises at the moment where the actors that are confronting each other notice that none have the tools nor the spirit to maintain a struggle and that the continuity of such only implies costs (Wills, 2003: 28).

The same happens with some particularities of conflict such as the use of landmines. As explained before particularities can lead to a more general process. So if one succeeds engaging one group with the Landmine Ban, later this might lead to peace negotiations with the ELN, while the struggle still continues with the FARC. Geneva Call started making progress with the ELN when they were militarily and economically weak so it was at the right time in the right place. Such was the case of the Philippines when the actors showed some kind of political will to negotiate, Geneva Call started the engagement process. It is not ideas and beliefs that matters, is power, and self-interest.

With these two experiences Colombia and the Philippines I would suggest that after the non-state actors have lost their strength to keep fighting in the conflict and they are better off to negotiate, here is were constructivism applies. First confidence has to be created among the parts that are searching agreements. This confidence can be created formulating social processes such as workshops taking into account the populations and the rebel groups' beliefs and values. This is especially so in a country like Colombia where many ethnicities inhabit the country and regions are considered special jurisdictions because of the type of groups that live in specific areas. Indigenous groups, and black populations make part of Colombia’s cultures and therefore social values,
culture, and beliefs are different in many regions.

For the Colombian case specifically, constructivism also fits with the idea of engaging non-state actors in the post-conflict stage, not while the conflict is still taking place. The number of actors involve is not only the State, international organizations are also part of the process such as the case of El Salvador shows where the UN and the OAS were involved. NGOs also help in the reconstruction phase.

It is true that if one group signs an agreement it makes the process with other groups easier. Like in Burma “through their signatures ONAR and PNUA have opened the door for other armed groups of the region to compromise with a ban on landmines” (Minas Antipersonal Actores Armados No Estatales, 2004:14). This can be considered norm replicability but in Colombia it will not be done because there is a common belief or common values, it will be done when the group feels “defeated” by the enemy. No doubt that there is less threat for the FARC if the paramilitaries negotiate with the government, it will be easier for organizations, local community and the State to work with the FARC a merely successful negotiation process because a "threat" vanished.

In terms of the hard core approach shaming and pointing has not seemed to work in Colombia, because for example when the media tries to report a human rights violation, Policzer argues that, “in Colombia, the FARC exercise rigid control over the local media in the areas under their control, as well as other independent monitoring groups” (Policzer, 2002: 17). The media members often fear being kidnapped or even assassinated. This is why “the media operates with great deal of self-censorship” (Policzer: 17). Therefore the armed groups control the media and it is problematic for the reporters to actually be objective in certain issues, problems, or when it comes down to publishing the different violations to Human Rights. Certainly, this applies to the use of landmines by the FARC and the ELN especially in the areas that each one controls. It is very dangerous for a reporter to reveal that landmines injured someone, or that a minefield was found in one place or another, because it is a threat to their lives.
Also, in some cases governments set obstacles for the different NGOs that try to name and shame these groups as in many situations the argument is that by disseminating this type of information the consequence is going to be the opposite one: give legitimacy to the groups. Also many times NGOs are not neutral. As an example, recently, President Alvaro Uribe had a misunderstanding with Amnesty International, after the FARC massacred 34 people in La Gabarra, Norte de Santander. In a speech given by the President on June 16, 2004 Uribe said: "You know why I am sad? That at this hour I have not heard Amnesty International pronounce itself. It hurts me that yesterday 34 peasants were slaughtered and Amnesty International keeps silent". This was the first charge of its kind against an NGO which is recognized world wide for defending human rights. Uribe goes on by saying "Amnesty International, the same that abuses of its good name, to accuse Colombian's Public Force, to go and maltreat it with slander, to maltreat it with calumny. Amnesty International, the one that at this time has not pronounced itself and that walks around European governments' official offices asking that the Colombian State be condemned because it is a terrorist". And Uribe does not stop there he asks himself and the people “Who is the terrorist? The state of these self-sacrificing police men that were slaughtered, whose relatives who are in mourning have come this morning, or the action by the FARC yesterday that slaughtered 34 Colombian peasants?” This type of issue may also limit and put in doubt the partiality of the NGOs. Not to say that they are not partial, but since these kind of situations are broadly known by the public it might to a certain point lower the legitimacy of the NGOs working with Human Rights and IHL. And by public I mean citizens, military forces, governmental officials, and even members in the guerilla or the paramilitary. It is NGOs who are trying to work with illegal actors to comply to a landmine ban, and these issues might slow the process or even make it come to a complete stop. For sure the local media and reporters do not publish everything they observe, know and watch because the guerrillas or paramilitaries members put their lives at risk. So, sometimes naming and shaming is not as efficient when urgent measures need to be taken, just as it is the case of Colombia.
In the case of states it is different, because naming and shaming a state can damage its reputation at the international level. It can ruin its multilateral relations, it can punish its economy, and within its same citizens it can make it lose legitimacy. If a State is shamed it will certainly have many effects that may negatively affect its reputation. Secondly, a state is legitimate and accepted as such in the international world, while non-state actors are not considered legitimate and many actually refer to them as "groups outside the margin of the state" which means that they do not belong inside the state system but outside of it. They are considered illegitimate anyway so they do not find any preoccupation about NGOs or media shaming and pointing.

In the case of Colombia as a legitimate state, it was a norm that shaped the different programs, projects and policies that made the state aware of the problem. Since Colombia is part of the Ottawa treaty, it was this treaty that imposes certain requirements for the state such as to destroy the stock piled mines in a period of 5 years after entry into force of the treaty in the country and each state has to remove all the mines that have been landed in a period of 10 years. Due to its internal conflict, for the government is very hard to accomplish these articles of the Treaty. Even though, the destruction of the stockpiled mines is supposed to end in October of this year, the removal of mines will take much longer. Especially because once demining processes start, and a minefield is cleared, some time after, the illegal groups mine the area once more. This is a main concern for the Observatory for Antipersonnel Mines as "guerrillas and paramilitaries relay in one week the mine fields that the Military Forces clean in two months" (En el primer semester del 2004, se redujo en 24% el número de minas militares muertos y heridos por minas, 2004).

In this case constructivism can explain why Colombia signed the treaty. And, it is able to explain why programs such as the one carried by the OAS are possible. First because the OAS already has a program established for action against mines and can replicate the issue to other countries such as Colombia. Costa Rica, Honduras and Guatemala requested to the OAS assistance in
demining. Thus, the OAS created a program called PADCA\textsuperscript{22} (Assistance Program for Demining Central America) to help the different countries in the process.

This program has been considered a successful one and therefore it has duplicated in other countries like Peru and Ecuador, and most recently Colombia. With the description of PADCA in the previous paragraphs some questions arise: In what ways does constructivism best explain this replicability in a country like Colombia? Constructivists would argue that first, a norm has already been created (The Ottawa Treaty to Ban Landmines) therefore it is easier to advance on the Program. Secondly, they would argue that there are common social values in a society that make this kind of Programs be successful, not only because there is a norm and a necessity, but shared values and identities that make the Program relevant since the OAS does not focus only on demining programs but also in working closely with the communities in mine-risk education and victim assistance. In this sense values and ideas have to be shared in order to understand the necessities of the population.

Colombia as a state is bounded by norms, but the FARC and the ELN are not, or at least they believe they are not. Arguably the best solution at the moment has been the use of force against non-state actors as Uribe’s policy and programs reflect. My suggestion is that a parallel process is needed. The defense of territory using military force, so that armed groups do not take over the resources available in the areas they control is necessary; on the other hand, efforts should not stop to try to convince and transmit the idea to the leaders that landmines are causing more damage. The local processes need to continue and the work for and with the communities is relevant, to create trust, confidence, and local experiences that lead to a national ideal: A country free of landmines and at peace!

4.1 Recommendations
To Geneva Call:

\textsuperscript{22} The original name of the Program is in Spanish, therefore the initial are for its original name.
• Efforts in Colombia must continue and with the ELN is easier than with the FARC. The case of the Philippines and Burma are good examples, and the difference is that probably in the Philippines there was a will for peace. With the ELN there is at least a will to limit the use AP mines but with the FARC there is no sign at all of willing to stop the use of landmines. They have not showed any signs of will Like in Burma "After 4 years of dialogue two Burmese groups, Arakan Roghingya national Organization and Arakan United National Party and its armed sections, Rohgya national Army and Arakan Army signed the Deed of Commitment" (Minas Antipersonal Actores Armados No Estatales, 2004: 13). So the process is long, as the actors operating under the logic of an irregular war, are not in a rush to sign any agreements. Through their efforts in other countries such as Sri Lanka, the Philippines, Burma, and India, they have tried to convince non-state actors in Colombia on a ban on landmines.

• To keep meeting with the leaders of the ELN, and make them agree to a total stop on the use of landmines. A step has been taken by an accord to limit use of these weapons but the main goal must be kept in mind: a total ban on landmines.

• Try to meet with the leaders of the FARC. Efforts should not only focus on the ELN but also the FARC even though they have not shown any sign of commitment towards a landmine ban.

• Keep working with the communities as regional experiences are very important. "Strengthen and increase the ability of civil society in the local communities within the pilot zones to support, monitor, and report the advances in the zones and other humanitarian accords with non-state actors" (Minas Antipersonal Actores Armados No Estatales, 2004: 24).

• Advance sensibility campaigns with the communities and mine-risk education programs so that the number of victims reduces at least in a low percentage.

To the Colombian Campaign Against Landmines:
• Keep researching on the issue of landmines in Colombia as much investigation is still required to understand the problem completely.
• Work closely with Geneva Call and support every effort carried out by these organizations by providing local people to carry out the different campaigns with the local populations.
• Provide the physical location for Geneva Call to be able to have a work place when their members are in Colombia for a mission or for any other working purpose.
• Provide Geneva Call with information on the issue of landmines and accompany them in the process of meeting with the leaders whenever it is necessary.
• Follow up the whole process and provide reports on what is there to be done, how and with whom.

To Colombia’s Government:
• Support Geneva Call whenever possible in their different activities
• Keep finding financial and economic support from international organizations, multilateral organizations, non-governmental organizations and others in order to continue demining programs, training personnel and programs on stockpiled resources. More importantly find resources to professionalize the Observatory for Human Rights and hire consultants to do research on the issue of antipersonnel mines for better knowledge on what is to be done, where, how and with whom.
• Assign resources from the national budget to the Observatory of Human Rights so that victim assistance and mine risk education programs can continue.
• Make every effort in order to be able to achieve a political negotiation with the different armed groups as it is doing with the paramilitaries at the moment.

To the FARC:
• To gain political will to negotiate with the government generating confidence with the population, Colombian citizens and the international community.

• Realize that landmines cause more damage than benefits and change the war strategy so that landmines are not necessary for the conflict.

• Present a proposal on what they want in return for negotiating, what they expect after negotiations are finished, and how can they be integrated into social life.

• Present a proposal to understand under what conditions they are willing to stop landmines to Geneva Call and/or the Colombian Campaign Against Landmines.

• To understand that the government is regulated under the Ottawa Treaty that has already converted into national legislation. Therefore the government has to destroy its stockpiled mines, carry out demining programs, and stop using them as a mechanism of defense.

To the ELN:

• Accept negotiations with the government.

• To understand that a limit on the use of landmines is an effective step but it is not enough. What is needed is a total ban on landmines to stop the catastrophe that this is causing among Colombian population.

• Support Geneva Call’s campaign and work closely with them to sign a Deed of Commitment.

• Respect the pilot zone that has been created to advance in projects and programs concerning landmines, for mine risk education programs to work with the communities.

• Accept Geneva Call’s will to keep negotiating with its leaders in order to achieve the Deed of Commitment.

• To stop landing mines in schools and over soccer fields where children play.

• To understand that the government is regulated under the Ottawa Treaty
that has already converted into national legislation. Therefore the government has to destroy its stockpiled mines, carry out demining programs, and stop using them as a mechanism of defense.

To the International Community:

• Support efforts done by the Colombian government, Geneva Call, and Colombian Campaign against Landmines regarding activities leading towards a ban on landmines.

• Support and act as mediators in any attempt of negotiation between the rebel groups and the Colombian government.
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