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CHALLENGING THE WESTPHALIAN ORDER: INCORPORATING ARMED GROUPS IN LAW-MAKING UNDER INTERNATIONAL HUMANITARIAN LAW

In recent times, much of the focus has been placed on the incorporation of certain non-state actors, such as NGOs and transnational corporations, into different law-making processes, although the resulting rules are considered *soft law*. However, little attention has been paid to the possibility of affording armed groups a degree of participation in law-making processes, in large part due to the argument that this might inappropriately legitimize such groups. Although it is not realistic for non-state armed groups (NSAGs) to fully participate in multilateral treaty-making processes, it will be argued that it is possible to include some of their views in the development of future humanitarian rules. In this paper, I will deal with four mechanisms through which armed groups could be included in law-making processes. Special consideration will be given to the Geneva Call Deed of Commitment in the case of Sudan as this provides an example of the way in which the commitment of an armed group to adhere to rules of international humanitarian law can influence the position of states in connection with ratifying treaties on IHL (in this case, the Ottawa Convention).