



RESEARCH NOTE

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Land Mines and the Inhumane Weapons Review Conference 1995

Land Mines

Originally designed to injure or kill enemy troops in order to slow or divert their movement and to protect military and other key installations, land mines have increasingly been used, intentionally or otherwise, against civilians. (For the purpose of this note "land mine" or "mine" refers to anti-personnel mines and excludes anti-tank mines). Unlike the conventional war scenario where enemy forces were perceived as an organised army, mines have increasingly been used by and against guerrilla and insurgent forces, uses which do not conform to accepted norms. These have included random and large scale mining of agricultural land as well as the use of mines as a weapon of terror against civilians.

Some 200 million mines have been laid in Afghanistan, Angola, Cambodia, El Salvador, Iran, Iraq, Mozambique, Nicaragua, Somalia, the former Yugoslavia and elsewhere in the world. It is estimated that there are more than 110 million unexploded land mines spread in 64 countries around the world and between 2 and 5 million more are being laid each year. According to the Red Cross, more than 800 people a month are killed by land mines, most of them innocent civilians, and thousands more are maimed.

Weighing anything from a few hundred grams to a few kilo-

grams, this small device has emerged as the most prolific killer and decapitator of humans. It does not differentiate between soldiers and civilians, has no use by date and does not recognise peace or the cessation of hostilities. It is the most lethal and long lasting forms of pollution yet encountered and represents the most widely used inhumane weapon, attempts to control the use of which started in the late 1970s.

Aware of the growing problem of land mines, in 1993 the UN General Assembly called on member States, regardless of whether they were parties to the Convention's land mine protocol, to establish a moratorium on the export of mines. Some 22 States responded by enacting total or partial temporary export bans.

The Inhumane Weapons Convention

The four 1949 Geneva Conventions for the protection of war victims were regarded primarily as a code of behaviour in wars conducted between states and regular armies. They were updated in 1977 by two additional protocols relating to the protection of victims of international and of non-international armed conflicts. However, with developments in armaments over the years, the provisions of existing conventions were not considered to be specific enough to forbid or restrict the use of those conven-

tional weapons that had indiscriminate effects, for example land mines and incendiary weapons. In 1977, the UN General Assembly decided to convene a conference on excessively injurious and inhumane conventional weapons with a view that the suffering of combatants and civilians could be significantly reduced if it was agreed to restrict or prohibit the use of such weapons. Moreover, it was argued that positive results in this area would lead to measures to eliminate the categories of weapons under review.

A conference was convened in Geneva in 1979. Attended by 82 States, it was the first major international conference on specific conventional weapons since The Hague Conferences (1899, 1907). In 1980, the Convention on Prohibitions or Restrictions on the use of Certain Conventional Weapons Which May Be Deemed to Be Excessively Injurious or to Have Indiscriminate Effects was adopted by the conference. It is also known as the Inhumane Weapons Convention and came into force on 2 December 1983.

To become a party to it, a State must ratify the Convention itself and two of its three protocols.

The Three Protocols

- Protocol I - prohibits the use of any weapon whose primary effect is to injure by fragments which escape X-ray detection in the human body, including those composed of substances such as wood, glass or plastic.
- Protocol II - relates to the use of mines, booby-traps and other devices including those activated by remote control or automatically after a lapse of time, but excludes anti shipping mines.
 - these devices may be directed only at military objectives, indiscriminate use is prohibited and all feasible precautions must be taken to protect civilians.
 - remotely delivered mines may not be used unless their location is accurately recorded or they are fitted with a neutralising mechanism.
 - records must be kept of pre-planned minefields as well as minefields laid during hostilities.
- at the end of hostilities parties are to take necessary measures to clear minefields.
- Protocol III - prohibits the use of incendiary weapons on civilians, including flame-throwers, shells, rockets, grenades, mines and bombs.

Problems with the Convention

The Convention has several major weaknesses:

- To date only 49 states including Australia are parties to the Convention, with Malta and Romania scheduled to join in December 1995 and January 1996 respectively. The United States ratified the Convention only in March 1995 while countries with serious land mine problems such as Angola, Mozambique, Rwanda and Somalia have remained outside. Hence the need for widespread ratification.
- The Convention at present applies only to international armed conflicts, while the majority of conflicts today are internal armed conflicts. In fact it is the latter which have caused the greatest suffering and accounted for a majority of the victims, as has been the case with Afghanistan, Cambodia and Mozambique.
- There are no effective implementation provisions.

At a more specific level, Protocol II of the Convention which deals with land mines and other devices also has serious flaws:

- While the intentional use of mines against civilians is prohibited, they become indiscriminate once military objectives no longer exist as is the situation in Angola and Mozambique.
- The growing incidence of irregular warfare has meant that there are no records of minefields which may shift geographically if they are not removed shortly after they are laid. Besides the Protocol assigns no clear responsibility for mine clearance.

Review Conference

A Review Conference with the aim of strengthening the Convention was held in Vienna between 25 September-12 October 1995. Australia, supported by various countries including South Africa, Canada and New Zealand, argued for a ban on trade in undetectable as well as long-lived (non self-destructing) anti-personnel mines, a ban on supply of mines to all non-government entities (guerrilla forces) and to any country not party to the Convention. It also sought to extend the Convention to internal conflicts and civil wars and for the creation of compliance and verification mechanisms.

As any outcome of the conference was to be by consensus, it made no progress on the question of anti-personnel land mines. Delegates to the Conference are expected to try again in Geneva, perhaps as early as December, but more likely next year.

There was, however, one successful outcome. An agreement was reached on the terms of a new protocol (Protocol IV) prohibiting laser weapons designed to cause blindness.

Dr Ravi Tomar

**Group Foreign Affairs, Defence and Trade Group
Parliamentary Research Service**

Phone: 06 2772459

Fax: 06 2772475

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