

## Restriction and Prohibition of Anti-Personnel Mines in International Law

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### Abstract

*The topic of "Restricting and Prohibiting Anti-Personnel Mines in International Law" is precise and branched out in detail, and therefore many international conferences and protocols were held until the signing of the Ottawa Treaty in (1997), which strictly prohibits the use of such weapons. Since then, campaigns have been active to support the implementation of the Convention, and two-thirds of the world's states have signed it, but major powers such as the United States of America, Russia and China have not ratified it. Here, several problems arise, including: How can these states be obligated to respect this Convention, especially with the 1994 Geneva Conventions free of any provision or article pertaining to mine victims, and the commitment of the world's armed groups to respect the Ottawa Treaty, are among the main dilemmas that must be resolved expeditiously.*

**Keywords:** *Asynchronous virtual education; Covid-19; Factor analysis; ICT; University faculty.*

### Introduction

#### *Preamble*

The issue of banning Anti-personnel mines is at the top of the list of issues raised, with the number of victims of these mines increasing significantly. The use of these mines in Burma, Syria, Ukraine and Yemen, as well as explosive mines planted by Armenia on the territory of Azerbaijan and other countries, led to a (50%) increase in the number of victims in (2022).

Attention to banning anti-personnel mines is one of the major themes due to its positive consequences in reducing the effects of armed conflicts and the devastating effects of anti-personnel mines on the state in general and on the civilian population in particular. Wars are supposed to end as soon as hostilities cease, but the continued effectiveness of planted anti-personnel mines prevents this, due to the physical and psychological consequences of their use on affected and injured civilians, as well as significant damage to their places of residence and agricultural lands, which leads to the displacement of the population, or their impoverishment and starvation due to their inability to use arable land. Here, the following questions arise: Are the general principles recognized in international humanitarian law sufficient to protect civilians from such mines? Can we rely on the humanity of governments and armed groups to implement the rules of international humanitarian law? Perhaps the use of nuclear weapons in the aftermath of World War II proves the opposite of what we are wondering about, even the international institutions concerned, such as the International Court of Justice, issued in (1996) an advisory decision not to see the necessity of denying nuclear weapons to states whose existence is threatened.

To answer the questions raised in the study, an analytical approach was adopted in addressing and evaluating conventions and legal worksheets that govern the ban on the use of anti-personnel mines. A descriptive approach was taken into account in presenting the various international documents, with the aim of identifying the problem of anti-personnel mines and trying to find solutions to it.

The topic of "Restricting and Prohibiting Anti-Personnel Mines in International Law" is delicate and complex in its details, and its relevance and significant and ever-grave results are reflected on the ground, so its track has included numerous international conferences and protocols were held until the Ottawa Treaty was signed in (1997), which strictly prohibits the use of such weapons. Here, the historical approach was resorted to tracing the sequence of conventions and the reasons for their conclusion. Since then, campaigns have been active to support the implementation of the agreement, and two-thirds of the world's states have signed it, i.e. about (164) state, but major powers such as the United States of America, Russia, and China have not ratified it. Here, several problems arise in how non-ratifying states are prevented from using this type of weapon. Notwithstanding the principle of states' responsibility to protect civilians during

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armed conflict not to use specific types of weapons, this responsibility remains in the case of custom the non-comprehensiveness of the international law of any provision directly applicable to the liability for anti-personnel landmines. It is clearly observed that the 1994 Geneva Conventions do not contain any text or article related to mine victims, and this issue will be addressed the first chapter, which includes the definition of anti-personnel mines and the course of their legal restriction and prohibition.

The major problem lies in how to prevent the use of such mines by the world's armed groups, especially in States that have failed to control their entire territory. Therefore, reviewing the salient points that should be raised in an attempt to respond to the challenges facing the ban on anti-personnel mines in international humanitarian law, as well as international efforts and the course of the 1997 Ottawa Treaty, will be the concern of the second chapter, which will focus on the efforts of the United Nations and other non-governmental organizations, in particular the performance of the International Committee of the Red Cross (ICRC). After that, the results of the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and their reflection on the international reality will be assessed.

## *Chapter I*

### Definition of Anti-Personnel Mines and the Course to Their Legal Restriction and Prohibition.

Anti-personnel mines are characterized by the terrifying humanitarian, environmental and social impact compared with other internationally prohibited weapons, making them the focus of many international bodies' attention. Thus, preventing the use of such mines has become the sole objective of those who have raised the alarm, provided that the continued use of anti-personnel mines is considered an international humanitarian crime.

From this standpoint, it is necessary to proceed on the path of restricting their use and then banning them internationally, leading to the signing of the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction, known as the Ottawa Treaty in (1997).

The use of mines is due to the eras when gunpowder was discovered, where combatants used it like other weapons in various battlefields. With the multiplicity of types of this weapon and the difference in its features and characteristics, the importance of focusing on the definition of anti-personnel mines included in the international conventions and documents related to them has emerged, which will be addressed in the (First Topic) of this Chapter. The (Second Topic) will review the legal means to restrict their use with the aim of banning them due to their humanitarian risks and the conclusion of the Convention on the Limitation and Prohibition of Anti-Personnel Mines.

#### *First Topic: Definition and Characteristics of Anti-Personnel Mines.*

To highlight the basic idea of this study, it would be useful to first address in this topic the general definition of mines, and then address the definition of anti-personnel mines in particular.

#### Section I: The Linguistic and Terminological Definition of Mines

The word "mines" is derived from the singular "mine" which in French means "mine"<sup>2</sup> which in turn is derived from the Latin root of the word "mina" which means (vein/edge of mineral ore) and was used in searching and prospecting for minerals underground. It was with this effect that engineers and military

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<sup>2</sup> Dictionnaire du droit international des conflits Armés. Comité International de la Croix-Rouge, Genève 1988, (PIETRO VERRI).

personnel developed the term and decided to use it above ground in many battles, especially in the siege of castles and historical buildings that were regarded military centres, and in blowing up walls<sup>3</sup>.

The Arabic Dictionary of "Al-Waseet" defined the word "اللغم", (Mine) in English, as "a semi-box or container stuffed with explosive substances, then placed hidden in the ground and if someone steps on it, detonated"<sup>4</sup>.

As for the terminology meaning, the NATO Glossary of Terms defines a mine as (a mine in land mine warfare, an explosive or other material, usually enveloped and designed to destroy or damage vehicles, naval vessels or aircraft or also wound and kill, or to cause physical impotence in persons, and can be activated by the victim himself because it is equipped with a delay valve or controlled remotely...)<sup>5</sup>.

But this definition was not commensurate with the development and modernization of the mining industry. Subsequent definitions of mines included the concept of remotely controlled explosive objects and delayed-detonation bombs.<sup>6</sup>

Article (2), paragraph (1) of the Second Protocol on Prohibitions or Restrictions on the Use of Mines, Booby Traps and Other Devices, annexed to 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 of (1980), defined the mine as : "(Mine) means a munition placed under, on or near the ground or other surface area and designed to be exploded by the presence, proximity or contact of a person or vehicle, or by the contact of a rocket, mortar or similar means thereof or by being dropped by an aircraft"<sup>7</sup>.

After amending the Second Protocol on Prohibitions or Restrictions on the Use of Mines, Booby-Traps and Other Devices on (3<sup>rd</sup> May 1996), Article (2) thereof defined, in its first paragraph, mine or mines as follows: "Mine" means a munition placed under, on or near the ground or other surface area and designed to be exploded by the presence, proximity or contact of a person or vehicle"<sup>8</sup>.

## Section II : The Concept and Types of Anti-Personnel Mines

As research into the mechanisms for the application of restrictions and prohibition of the use of mines began, the term "Anti-Personnel Mines" took on a broad debate backstage of the international policies and institutions. The Second Amended Protocol of (1996) stated in Article (2), Paragraph (3): "(Anti-personnel mine) means a mine primarily designed to be exploded by the presence, proximity or contact of a person and that will incapacitate, injure or kill one or more persons"<sup>9</sup>.

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<sup>3</sup> United Nations Mine Action Service (UNMAS), "LANDMINES, EXPLOSIVE REMNANTS OF WAR AND IED SAFETY HANDBOOK", 3<sup>rd</sup> Edition, 2016, p10.

For more details please follow the link: <http://www.mineaction.org/sites/default/files/publications/Handbook-Arabic.pdf>.

<sup>4</sup> Amin Ali Al-Sayed, "Eloquent Vernacular in "Al-Waseet" Dictionary", Academy of the Arabic Language, Cairo, 1<sup>st</sup> Edition, 2005, p. 207.

<sup>5</sup> Le dictionnaire Larousse Maxipoche, éditions larousse 2015, Paris, p.892.

<sup>6</sup> David Guillard, les armes de guerre et l'environnement naturel essai d'étude juridique le harmattan, Paris, France, 2020, p.109.

<sup>7</sup> Refer to Full Text of the Protocol at: <http://www.un.org/ar/peace/mine/treaties.shtml>.

<sup>8</sup> Refer to Full Text of the Amended Protocol at: <http://www.un.org/ar/peace/mine/treaties.shtml>.

<sup>9</sup> Waqas Nasser, "International Protection for Victims of Anti-Personnel Mines", Publications of University of Belkaïd Abou Bekr Tlemcen, Faculty of Law - Algeria, 2018, p. 19.

This definition was of concern to international bodies, most notably the International Committee of the Red Cross (ICRC)<sup>10</sup>, considering that the inclusion of the word "primarily" opens up exceptions to the rule of law above and opens doors for states to trade in and sell anti-personnel mines under different headings, as this definition may exclude mines affecting both mechanisms and personnel. This criticism has posed a major challenge to the states in adopting a clear definition of anti-personnel mines, which would achieve the humanitarian objectives sought by international actors, in restricting and prohibiting the use of such mines.

After long efforts and discussions, a clear definition of anti-personnel mines was adopted, taking into account the concerns and observations of international organizations, particularly the International Committee of the Red Cross (ICRC), as it was defined by the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction "Ottawa Treaty of (1997)" in its article (2), paragraph (1) as: "Anti-personnel mine" means a mine designed to be exploded by the presence, proximity or contact of a person and that will incapacitate, injure or kill one or more persons. Mines designed to be detonated by the presence, proximity or contact of a vehicle as opposed to a person, that are equipped with anti-handling devices, are not considered anti-personnel mines as a result of being so equipped"<sup>11</sup>.

The development of mine manufacturing technology often makes it difficult to limit all types of mines, as they, like other weapons, are witnessing continuous technical development. However, this study will address the qualitative distinction of mines, which are divided into three types:

- Naval Mines.
- Landmines.
- Aerial Mines.

Naval mines are used by laying them under water, and are divided into four types:

- i. Acoustic Mines: Exploded by the sound of marine vessels passing by.
- ii. Contact Mines: As its name indicates, it explodes as a result of its contact by a marine vessel.
- iii. Magnetic Mines: Explode by the ship's magnetic field or by the marine vessel when approached.
- iv. Pressure Mines: Explode as a result of external pressure caused by the passing of a marine vessel or its proximity<sup>12</sup>.

These mines were used heavily in (1907) during the war between Russia and Japan, which led to the need to establish a mechanism to regulate their use, and the result was the conclusion of the Convention relative to the Laying of Automatic Submarine Contact Mines, known as the Hague Convention VII of (1907)<sup>13</sup>. As for landmines, which include more than seven hundred types of landmines, they are divided into two

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<sup>10</sup> Refer to the report of the International Committee of the Red Cross (ICRC), dated 15/8/2007 under the title "Overview of the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction", also known as the "Ottawa Treaty".

<sup>11</sup> Full Text of the Convention: <http://www.un.org/ar/peace/mine/treaties.shtml>.

<sup>12</sup> Shari Khaled Marouf, "International Responsibility for Mine Clearance: Legal Study", Dar Al-Kotob Al-Qanuniah, Egypt, 2011, pp. 25, 2.

<sup>13</sup> Walid Muhammad Ali Al-Sayed Arafah, "International Responsibility for Landmine Laying", Dar Al-Kutub Al-Qanuni, Egypt, 2010, pp. 41, 42.

main types: Anti-Personnel landmines, and Anti-Vehicle or Anti-Armor landmines<sup>14</sup>, which will be discussed briefly to serve the objectives of the study.

Anti-personnel landmines are characterized by a light weight, as they do not exceed nine kilograms, and are affected by natural factors (humidity and rust), which leads to their easy explosion when any weight passes over them<sup>15</sup>. These mines hold about (250) grams of explosives, and comprise (360) types classified according to the damage they cause into three categories<sup>16</sup>:

- Anti-Personnel Explosive Landmines, the most widely used and widespread in global, do not lead to death, but result in serious injuries such as amputation.
- Fragmentation Anti-Personnel Mines: Are designed to cause death, often to a large number of people, from fragments propelled by the mine's explosive charge. There are three basic types of fragmentation anti-personnel mines: stake mines, directional fragmentation mines and bounding fragmentation mines<sup>17</sup>.
- Anti-Personnel Mines with a Shape Charge: They are designed to damage the lower part of the victim and their explosion often leads to leg amputation<sup>18</sup>, in addition to the existence of several types of anti-personnel mines, classified according to the standard of damage they cause to their victims, for example, Blast, Bounding, magnetic mines, oscillation mines and light cell mines.<sup>19</sup>
- Anti-Vehicle Landmines are aimed at disabling and destroying large military vehicles and mechanism (e.g. tanks), with catastrophic consequences for civilian vehicles and leading to the death of most of their victims.<sup>20</sup>
- Finally, Aerial Mines are modern mines that have been produced and used as a result of technological development in the arms industry. They target aircraft and helicopters at different altitudes, and are characterized by their short explosive range. They explode when the aircraft approaches them or by remote control.<sup>21</sup>

In general, mines, especially landmines, are considered deferred weapons, where there is no specific operational date and they are subject to one substantive condition, namely the passage of an object over them, whether a person or a mechanism, that does not discriminate the identity of the victims and may target an enemy, a combatant, or a civilian<sup>22</sup>.

From the foregoing, it is concluded that landmines are indistinguishable to their victims, characterized by their long duration of their explosion and delayed effects, which extend beyond the end of wars and even

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<sup>14</sup> The Previous Reference, p. 22, 23.

<sup>15</sup> Shari Khaled Marouf, Previous Reference, p. 24.

<sup>16</sup> United Nations Mine Action Service (UNMAS), "Landmines, Explosive Remnants of War and Improvised Explosive Devices Safety Handbook", p12.

<sup>17</sup> The Previous Reference, p. 13.

<sup>18</sup> The Previous Reference, p. 15.

<sup>19</sup> Waqas Nasser, Previous Reference, p. 26.

<sup>20</sup> The Previous Reference, p. 19.

<sup>21</sup> The Previous Reference, p. 28.

<sup>22</sup> Hassan Johnny, "Israel and Mine Laying in Violation of International Law", Research published on the website: [www.moqawama.org/arabic](http://www.moqawama.org/arabic).

beyond peace between the parties to the conflict, and because they are affected by climate factors such as drifts and floods, they become a delayed-acting weapons of mass destruction.<sup>23</sup>

Through this definition, the Treaty of Ottawa seems to emphasize that anti-personnel landmines are all mines operated by individuals, regardless of being buried in the ground amidst in marked minefields or dispersed from a distance over vast areas, and also include smart anti-personnel mines that have the potential to destroy themselves, neutralize themselves by automatically exploding, or deactivate them after a certain period of time. The Treaty also prohibits dual-purpose mines, i.e. intended for explosion by both individuals and vehicles, as well as anti-vehicle landmines.

**Second Topic:** The Legal Course to Restricting and Prohibiting Anti-Personnel Mines and the Establishment of the 1997 Ottawa Convention.

The Hague Convention of (1907) was not sufficient to deter states from the intensive use of anti-personnel mines, as its pace rose by a very large proportion during the Second World War. The Germans were known for their anti-personnel mines and production in (1935), and used them in (1941) in North Africa. This development was an inspiration for Americans and Britons, as they developed the manufacture of similar-type mines<sup>24</sup>, where this development was the first generation of anti-personnel mines. The second generation, which was characterized by strong effectiveness and rapid laying and spread, emerged in the 1960s and 1970s<sup>25</sup>.

NATO states developed automatic mine-laying equipment that was able to lay 200 mine per hour in their war with the former Soviet Union<sup>26</sup>. Until that time, the purpose of laying anti-personnel mines was defensive in the event of an attack and aggression by the enemy, until the period accompanying the Vietnam War, when the use of anti-personnel mines shifted from defensive to offensive and were used proactively to prevent the advance of hostile forces.

In parallel with this destructive development, the course of peace process was continued through discussing and debating protocols and conventions that motivate states to restrict the use of anti-personnel mines, through serious attempts to stop the use of destructive weapons even after the cessation of wars, with the aim of prohibiting their use, in the Ottawa Convention of 1997.

#### Section I: Legal Enforcement Mechanisms to Restrict or Prohibit the Use of Anti-Personnel Mines.

If wars are an inevitable reality, then attacking civilians and their psychological and physical integrity is unacceptable and a crime against humanity. International conventions and rules of international humanitarian law were rose for this purpose, in order to avoid major disasters caused by war, regardless of its type and size. (International, regional, bilateral), by organizing and restricting armed conflicts first, and protecting civilians and victims of armed conflicts second. Therefore, there are many conventions that have attempted to restrict the use of anti-personnel mines, which will be listed below according to the chronology of their establishment or signature:

##### The Hague Conventions (1899 and 1907)

In results similar to the St. Petersburg Declaration, the states that met at the Hague Conference (1899) failed to reach an agreement at that time on the prohibition of new types of effective weapons and

<sup>23</sup> Eric Prokosch, "Landmines: A Deadly Legacy", International Review of the International Red Cross, Issue. 39, 7th Year, September-October, 1994, p. 438.

<sup>24</sup> Ahmed Ibrahim Mahmoud, "The Problem of Mines, Dimensions of the Problem in the World and the Specifics of the Egyptian Case", Political and Strategic Studies Centre, 1<sup>st</sup> Edition, p. 23.

<sup>25</sup> Nuzha Al-Madmed, "Legal Regulation of Landmines in International Law", Dar Al-Kotob Al-Alamiyah, 1<sup>st</sup> Edition, Beirut, Lebanon, 2014, p. 32.

<sup>26</sup> The Previous Reference, p. 34.

explosives, and merely agreed to prohibit three limited types of weapons classified as moderately effective. The conference limited itself to the states announcing their promises to reduce military spending and armaments in exchange for efforts to revive the human well-being of peoples<sup>27</sup>. This is in contrast to the Second Hague Convention of (1907), fifteen international conventions were signed and adopted as an outcome of the Second Hague Conference. The most important of these was the Fourth Hague Convention, signed on (18<sup>th</sup> October 1907), which abolished the effectiveness of the First Convention of (1899) by prohibiting the use of weapons or bombs which cause serious harms to the enemy, including anti-personnel landmines<sup>28</sup>. The conference's shortcomings were evident in the failure of states to establish mechanisms to limit the arms race, and avoid discussing this issue during the conference sessions, then the outbreak of the First World War followed as a result of the nature of the challenges not considered at the Second Hague Conference<sup>29</sup>.

Restriction or Prohibition of Anti-Personnel Mines within the Four Geneva Conventions of (1949).

The former Secretary-General of the United Nations, Mr. Ban Ki-Moon, described the catastrophe of the Second World War, which left the largest number of victims and dead in the largest war the world has ever witnessed, as "one of the most epic struggles in history for freedom and the liberation", with the number of civilian victims reaching (40) million and (20) million combatants<sup>30</sup>. This war was a milestone in bringing about a qualitative shift in the formulation of international conventions and documents. After that global tragedy, the aim of international jurists became how to protect civilians from armed conflicts and reduce human losses among combatants.

A diplomatic conference was held in Geneva in (1949) which resulted in the signing and conclusion of four agreements, all of which entered into force on (21<sup>st</sup> October 1950), namely<sup>31</sup>:

- i. First Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field.
- ii. Second Geneva Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea.
- iii. Third Geneva Convention Relative to the Treatment of Prisoners of War.
- iv. Fourth Geneva Convention Relative to the Protection of Civilian Persons in Time of War.

The last Convention, or the Fourth Geneva Convention, is the most important achievement and accomplishment of the conference, and was described by the then President of the International Committee of the Red Cross (ICRC), Mr. Paul Roger, as a "miracle" that enabled the participants to fill the most serious gaps exposed by the Second World War and other wars that preceded it<sup>32</sup>.

But the bolt from was that the four Geneva Conventions of (1949) did not include any provisions relating to the use of anti-personnel mines. This was avoided in the formulation of the First Additional Protocol to

<sup>27</sup> Omar Mahmoud Al-Makhzoumi, "International Humanitarian Law in Light of the International Criminal Court", Dar Al-Thaqafa for Publishing and Distribution, Amman, Jordan, 1<sup>st</sup> Edition, 2008, p. 251.

<sup>28</sup> Omar Mahmoud Al-Makhzoumi, Previous Reference, pp. 251-252.

<sup>29</sup> CHARLE Rousseau, *le droit des conflits armes*, Editions A. Pedone, 1983, p 541.

<sup>30</sup> Statement of the former Secretary-General of the United Nations, Mr. Ban Ki-Moon, dated (22 November 2010), at the following link: ([Un.org/ar/observances/seconde-world-war-remembrance](https://www.un.org/ar/observances/seconde-world-war-remembrance)).

<sup>31</sup> Essam Abdel Fattah Matar, "International Humanitarian Law (Sources, Principles and Most Important Rules)", Dar Al-Jamia Al-Jadida, Alexandria, Egypt, 2011, pp. 49, 50.

<sup>32</sup> Philip Spoerri, "The Geneva Conventions of 1949: Their Origins and Current Relevance", Statement dated (12 August 2009), during a meeting on the occasion of the 60th anniversary of the Geneva Conventions. For more information, refer to the link: (<https://www.icrc.org/ara/resources/documents/misc/5ntce2.htm>).

the Geneva Conventions, which was adopted on (10<sup>th</sup> June 1977), relating to the protection of victims of international armed conflicts and entered into force on (7<sup>th</sup> December 1978)<sup>33</sup>.

In contrast, Additional second Protocol to the Geneva Conventions was completely devoid of any provisions or articles prohibiting or restricting the use of anti-personnel mines, and its twenty-eight articles contained general provisions relating to the protection of victims of non-international armed conflicts<sup>34</sup>.

This failure of the principle of distinction between civilians and combatants who are victims as a result of the use of anti-personnel mines, which has continued since the Second World War despite the drafting all the aforementioned conventions and protocols, has prompted states to embark on a second course to draft and conclude special conventions to restrict and prohibit the use of anti-personnel landmines<sup>35</sup>.

While the four Geneva Conventions constitute a milestone in the establishment and development of international humanitarian law, the conclusion of the Convention on Conventional Weapons of (1980) and its Protocols constitute a milestone in the prohibition of the use of anti-personnel mines. The Convention shares with international humanitarian law the purpose of protecting civilians from the indiscriminate effects of the use of certain weapons and reducing casualties among combatants in armed conflicts, and like other conventions, the concern of the participating states was that humanitarian considerations should not prevail over military considerations in the content and purpose of the Convention.

In terms of form, the (1980) Convention on Conventional Weapons includes five parts or protocols, of which only two relate to mine issues: Amended of the Second Protocol dealing with landmines, booby traps and other means, and the Fifth Protocol dealing with the issue of explosive remnants of war<sup>36</sup>.

As in terms of content, the Convention has reaffirmed international principles and norms previously mentioned in international declarations and conventions, most notably the principle of the protection of civilians from hostilities, and the Convention is the effective first stage in restricting and prohibiting the use of anti-personnel landmines.

Despite the positive outcome that resulted from the conclusion of the aforementioned Convention, the fundamental flaw was not in its content, but in the mechanisms for enforcing it and monitoring its application, in addition to the legal gaps related to the non-mandatory of the implementation of the Convention by the signatory states, and its failure to include a legal mechanism for holding accountable individuals who violate its provisions and terms.

On the other hand, the Convention has been flexible in allowing signatories to make amendments to it, allowing for the development of its articles and provisions, and this was translated with the adoption of the second amended protocol on restrictions and prohibitions on the use of mines, booby traps and other devices<sup>37</sup>.

## Section II: The Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and Their Destruction.

The loopholes in the 1980 Convention and its first and second amended protocols, have prompted international actors, particularly the United Nations, to concentrate efforts to achieve the objective of banning the use of mines destined for personnel. That period has witnessed various international initiatives

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<sup>33</sup> Waqas Nasser, Previous Reference, p. 102.

<sup>34</sup> Additional Protocol II of 1977, For Reviewing Refer to ICRC website: (<https://www.icrc.org/ara/resources/documents/misc/5ntce2.htm>).

<sup>35</sup> Waqas Nasser, Previous Reference, p. 105.

<sup>36</sup> The Previous Reference, p. 107.

<sup>37</sup> Arabic Mine Action Programme's website via the following link: (<http://aop-mineaction.org/mine-risk/international-laws/cw>).



and resolutions for global peace. Since peace cannot depend on states' monitor themselves on the application of international conventions and treaties on the one hand, nor through promises and being satisfied with them on the other, international efforts and initiatives have intensified until the establishment of the Ottawa Treaty in (1997) and its conclusion by (140) states in the world.

The course of the Anti-Personnel Mine Ban Convention differs from other international conventions and treaties. This path was characterized by collective and vigorous efforts of states, the United Nations, and international non-governmental organizations and institutions, most notably the International Committee of the Red Cross. This path can be described as a travail, as it was process of being preceded by several international conferences leading up to the conclusion of the Convention, the most important being the Ottawa Strategic Conference of (1996), which resulted in the Ottawa Declaration, where participating States and organizations committed themselves to making efforts to achieve many objectives, the most important of which are the prohibition and total elimination of anti-personnel mines and the increase of financial resources for the demining process<sup>38</sup>. Consistent with this Declaration, the United Nations General Assembly at its fifty-first session adopted resolution (A51/45/S), in which it urged states to conclude a legally binding international agreement for a comprehensive ban on anti-personnel landmines<sup>39</sup>. This cooperation between the various international parties was met with disagreement on key points, particularly after the Canadian Foreign Minister called for the preparation of a draft comprehensive convention on anti-personnel landmines based on relevant international conventions. The points of dispute centred on the definition of anti-personnel landmines and the mechanism for verifying states' compliance with the provisions of the convention and its implementation.

This disagreement moved to the Brussels International Conference in (1997), which complemented the Ottawa negotiating conference process, and came out with general recommendations that did not differ from those previously issued in Ottawa, while states continued to disagree about the nature of the Ottawa Convention and the mechanisms for verifying the implementation of its provisions.

The third and final phase of the Ottawa negotiating course witnessed a enormous event, as the United States of America announced its desire to participate in the negotiations and join the Oslo Conference in 1997, which was the last stop before the birth of the Ottawa Convention in 1997.

The Oslo Conference was described as historic, as it was attended by a large number of states<sup>40</sup>, and this large number of states was considered a historical precedent in the era of international humanitarian law, according to what was stated by the Canadian Prime Minister at the time, "Jean Chretien", who said: "For the first time in history, most countries will agree to ban a weapon that was used in most of the armed conflicts witnessed by the world"<sup>41</sup>.

The outcomes of the Oslo Conference included agreement on a definition of anti-personnel mines and setting a time limit for countries to be prepared to implement the provisions of the Ottawa Convention. The period was set at nine years from the date of signing the Convention. As in previous international conferences, the proposals and results were rejected by the participating states, particularly the United States of America, whose withdrawal from the conference constituted a deficiency and weakening of international efforts aimed at concluding a treaty banning anti-personnel mines.

In addition to international conferences, the Ottawa Convention was preceded by special regional conferences in Africa. These conferences served as a prelude to raising awareness of the need to adopt the Convention, including: the Mozambique Conference held in Maputo in (1997), and the First Continental

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<sup>38</sup> Peter Harby, "Will there be an international treaty to ban anti-personnel landmines in 1997?" International Journal of the Red Cross, Issue 54, March-April 1997, pp. 202ff.

<sup>39</sup> The United Nations website at the link: [http://www.un.org/arabic/documents/GARes/51/A\\_Res\\_51\\_045.pdf](http://www.un.org/arabic/documents/GARes/51/A_Res_51_045.pdf).

<sup>40</sup> Ahmed Abis Ne'mah Al-Fatlawi, "The Problem of Conventional Weapons among the Efforts of the International Community", Zain Legal and Literary Library, Beirut, Lebanon, 2013, pp 108& 109.

<sup>41</sup> Waqas Nasser, Previous Reference, p. 133 ff.

Conference of African Mine Experts held in Kempton Park, South Africa in (May 1997)<sup>42</sup>. The question that arises here is, what are the elements that made the Ottawa Convention stand out from others?

The signing of the Ottawa Treaty (1997), as stated in its preamble, came in response to the principle of continuity in reference to the Convention (1980), United Nations General Assembly Resolution No. (A51/45/S), the First and Second Ottawa Declarations (1996), and the Brussels Declaration (1997)<sup>43</sup>. The Convention had many unique features, which were obvious in its provisions and content. Its signing was negotiated for the first time in the history of international relations with the participation of a group of non-governmental organizations that played a prominent role in reaching its conclusion by a large number of governments around the world. These organizations have also adopted the task of monitoring its implementation by establishing relevant special bodies and through their bodies that were also established in various states of the world and in various armed conflicts. On the other hand, the Convention was implemented rapidly as it entered into force less than two years after signing it, and committed the signatory states to providing assistance to victims of anti-personnel landmines<sup>44</sup>.

In terms of its content, the treaty has been able to transform certain unwritten rules of international humanitarian law relating to the use of anti-personnel mines from customary to binding provisions, as it has categorically prohibited the use of such lethal weapons. This step was complemented by the Convention's classification of anti-personnel mines as illegal weapons, and included several prohibitions and definitions of concepts and terminology relevant to the use of anti-personnel mines. And it was the first of its kind to include policies and preventive steps against anti-personnel mines, as if it were in a pre-preventive war with governments in the event that they use this prohibited weapon. It also cited all categories of people who could be affected by this weapon and classified among civilians (children, women, displaced persons, refugees, and civilians disfigured by mines), it is like a comprehensive Constitution where various areas adversely affected by the use of anti-personnel mines were covered, most notably economic development, especially agricultural land and the natural environment, have also been affected.

As a comprehensive constitution, the Convention sets out clear and unambiguous definitions of terms relevant to its subject matter, particularly mines, including: anti-personnel landmines and anti-handling devices, anti-vehicle mines with anti-handling devices, landmines, and the definition of the transfer or transport of mines. These multiple definitions served as a prelude to a number of prohibitions, as the Convention not only prohibited the use of mines, but also prohibited the production, transfer and stockpiling of anti-personnel mines in all types of international and non-international armed conflicts.

From the above, it is clear that the Ottawa Convention of 1997 included provisions that made its implementation a tangible reality for member states and for states that did not join the Convention, as it focused on the final ban on anti-personnel mines, in four main chapters of the Convention, including: destruction of anti-personnel mine stockpiles, mine clearance in mined areas, international cooperation and assistance, and national legislation of states<sup>45</sup>.

It is worth mentioning that more than one hundred and fifty states around the world have adhered to the Convention and become parties to it, and after the Convention's entry into force, other states are following up on accession and compliance with its provisions.

## *Chapter II*

### International Efforts and Implications of the Conclusion of the Ottawa Convention of (1997)

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<sup>42</sup> Waqas Nasser, Previous Reference, p. 136 ff.

<sup>43</sup> The Previous Reference, p. 141.

<sup>44</sup> Walid Muhammad Ali Al-Sayed Arafah, Previous Reference, p. 142.

<sup>45</sup> Waqas Nasser, Previous Reference, p. 154.

One of the features of the (1997) Ottawa Convention is that it brought together various international efforts and initiatives and strengthened the key role of international civil society. (The First Topic) of this chapter will address these efforts and highlight the most important ones, as well as the roadmap set by the United Nations to launch the greatest challenge of a world free of mines by (2025). As for (The Second Topic), it will address the results of this distinguished and comprehensive international movement, and review examples of states that succeeded in the process of banning the use of anti-personnel mines and others that stumbled in this noble humanitarian mission, and will stop at the causes for this stumble, which will enable us to identify some of the positives and negatives in the Anti-Personnel Mine Ban Convention.

**First Topic:** The Role of the United Nations and Initiatives of International Non-Governmental Organizations.

The United Nations efforts in the field of mine action date back to (1988), when it launched an appeal to collect donations to respond to the difficult humanitarian situations in Afghanistan, caused by landmines. The organization then developed its work and moved it to the stage of developing programs appropriate to the objectives of its founding and charter, and in (1995) launched a complete program of work entitled "A World Free of Mines". The actual translation of this appeal required the efforts of United Nations agencies and bodies and non-governmental organizations in effective cooperation and coordination that the world has not been accustomed to for a long time.

International efforts to ban and demining the landmines around the world have combined between the United Nations on the one hand and international non-governmental organizations on the other, and this was accompanied by the negotiation process of the Ottawa Convention in (1997), as the International Campaign to Ban Landmines was established in (1992), five years before the conclusion of the Convention and seven years before its entry into force.

#### Section I: United Nations Efforts on Ban Mines.

In line with the humanitarian objectives of the United Nations, it has paid special attention to the problem of anti-personnel mines. Its active contribution to the negotiations that led to the adoption of the Ottawa Convention (1997), firstly, through the prominent role played by its mine-related organs and agencies, and secondly, through the role played by the United Nations Mine Action Service in banning anti-personnel mines<sup>46</sup>.

United Nations efforts have contributed to demonstrating positive results in landmine combat and prohibition, with full demining from "Mozambique" and mine clearance programs in "Cambodia", "Rwanda", "Angola" and "Afghanistan"<sup>47</sup>. The following is a list of specialized bodies and agencies of the United Nations that contribute to mine combating<sup>48</sup>:

UNMAS- United Nations Mine Action Service.

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<sup>46</sup> The official website of the United Nations at the link: <http://www.un.org/ar/peace/cd>.

<sup>47</sup> Ahmed Ibrahim Mahmoud, Previous Reference, p. 164.

<sup>48</sup> Waqas Nasser, Previous Reference, p. 120 ff.

PNUD- United Nations Development Programme: Developing local capacities in the field of mine combating, and monitoring the social and economic impacts of the mine problem.

UNICEF - United Nations International Children's Emergency Fund: Awareness and education of the population affected by mines.

WHO - World Health Organization: Following up on the impact of mines on public health.

UNOPS - United Nations Office for Project Services: Implementation of United Nations mine action programmes.

IBRD - International Bank for Reconstruction and Development: Financing mine action programmes within the framework of development and reconstruction.

UNODA - United Nations Office for Disarmament Affairs: Following up on disarmament measures, especially the Anti-Personnel Mine Ban Convention (Ottawa).

OCHA - United Nations Office for the Coordination of Humanitarian Affairs: Following up on the humanitarian effects of the mine problem.

UNHCR - United Nations High Commissioner for Refugees: Responsible for the security of refugees and internally displaced persons.

WFP - World Food Programme: Responsible for food aid and agricultural development.

The United Nations Mine Action Service (UNMAS)<sup>49</sup> was established in (1997) to enhance the United Nations' capacity to manage and respond to mine problems worldwide. This body is the central administration for the United Nations' mine action activity. This function ranges from pre-awareness of mine risks, victim assistance, information gathering, dissemination and distribution<sup>50</sup>. The core functions of UNMAS can be summarized as follows<sup>51</sup>:

Representing the United Nations before major international bodies.

Define the United Nations mine action policies and develop the five-year strategy action plan.

Coordination with other UN agencies and external partners on mine action.

- Evaluating the course of the problem and focusing information on mines and their combat.
- Prioritization of evaluation missions and detection processes.
- Supervising demining operations in the context of peacekeeping operations, and developing mine combating programmes in humanitarian emergencies.
- Evaluation and monitoring of national and local mine action programmes.

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<sup>49</sup> Secretary-General of the United Nations in 1997 "Kofi Annan", where he held the position between 1997 and 2006. For more information, refer to the official website of the United Nations through: <http://un.org/ar/sg/formersgs.shtml>.

<sup>50</sup> Via The official website of the United Nations: <http://un.org/ar/peace/mine/unaction.shtml>.

<sup>51</sup> Waqas Nasser, Previous Reference, pp. 121,122 & 123.

- Establish and promote operational standards and procedures in the field of mine action.
- Coordination of resource supply operations.
- Management of the Special Transfer Fund for Mine Action and Assistance.

## Section II: The Positive Role of the Non- Governmental Organizations (NGOs).

From the very beginning of Ottawa's negotiating path, many international non-governmental organizations (NGOs) have jumped to the forefront to ban anti-personnel mines. After the role of the United Nations and its agencies, the difference in mine action field was: the role played by NGOs, which have become an important element of international policy. In this context, this section will address the role played by the International Campaign to Ban Landmines, and then the International Committee of the Red Cross outstanding efforts.

The International Campaign to Ban Landmines (ICBL)<sup>52</sup> arose in (1992), following catastrophic situations in Africa and Asia, particularly as a result of anti-personnel landmines. Since its inception, the campaign has expanded significantly into a network of more than (1,000) organizations and associations active in multiple areas women, children, veterans, environment, human rights, peace and development, in more than (90) states, where they operate at the local, national and international levels to achieve a comprehensive ban on anti-personnel landmines<sup>53</sup>. This campaign has significantly influenced global public opinion and its results were reflected in the decline in levels of use, stockpiling and trade in anti-personnel mines<sup>54</sup>. During the negotiating course of the Ottawa Convention, the International Campaign to Ban Landmines (ICBL) established the Mine Observatory, one of the mechanisms for its function in ensuring implementation of the provisions of the Ottawa Convention. The Mine Observatory has made it possible to identify the negative and positive opinions of the Member states of the Convention and to assess the performance of the Member States in the field of banning anti-personnel mines. It has also contributed to the collection of field information and has become a necessary database for issuing annual reports on global action in the field of mines. After that, in every state witnessing an international or non-international armed conflict, the observatory is active in the field of mine action, follows up on its effects and results, and issues the necessary reports documented with numbers, documents, and modern and advanced documentation, for example, the mine observatory in Yemen, the mine observatory in Libya, the mine observatory in Ukraine, and others.

In recognition and appreciation of the efforts of the International Campaign to Ban Landmines, the Norwegian Nobel Committee confirmed that the campaign was able to move the issue of banning anti-personnel mines from theory to implementation on the ground, describing it as an effective model for achieving peace, especially within its performance with small and medium-sized states<sup>55</sup>.

With regard to the International Committee of the Red Cross (ICRC), and based on its role and key tasks in monitoring the application of the rules of international humanitarian law and ensuring protection for victims of armed conflicts, It has played a prominent role in combating anti-personnel mines and assisting their victims, focusing its efforts on mine prevention measures and policies and providing assistance to mine victims, by providing first aid, recovery and physical rehabilitation programs, through economic security programs, training medical personnel, and providing hospitals with the necessary medical equipment, especially in mine-affected countries with low financial capabilities, such as Afghanistan, Sudan,

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<sup>52</sup> ICBL is the English initials of the "International Campaign to Ban Landmines".

<sup>53</sup> Website of the Protection Organization and its Effects: [http://www.mena-protection.org/prevent\\_mines.htm](http://www.mena-protection.org/prevent_mines.htm).

<sup>54</sup> Waqas Nasser, Previous Reference, p. 100

<sup>55</sup> The official website of the United Nations at the link: <http://www.un.org/ar/globalissues/denimning/pdfs/ICBL%20introduction%20in%20Arabic.pdf>.

Iraq, Uganda, and others<sup>56</sup>. In this context, the International Committee of the Red Cross in Afghanistan established a specialized centre in orthopaedics to help victims of anti-personnel mines and follow up on their health condition by health and psychological rehabilitation processes<sup>57</sup>. The (ICRC) contributes to the negotiation process and bilateral linkage of states' efforts in the field of combating anti-personnel mines and their ban processes, in addition to the advisory role it provides to governments and states in drafting, implementing and amending national legislation.

ICRC's tasks in banning and combating anti-personnel landmines appear to be many, diverse and complex, all of which are of great importance and effectiveness. However, the oversight role on the implementation of the provisions of the Ottawa Convention of (1997) is the most controversial and it performs this role, firstly based on its functions in the application of the rules and conventions of international humanitarian law as mentioned above, and through the technique of receiving and following up on complaints, on the one hand, and through the issuance and dissemination of anti-personnel mine-related reports on the other.

The complaints received by the (ICRC) vary between direct complaints that (ICRC) staff can monitor, record and communicate directly with victims affected by landmine explosions, and indirect complaints that are monitored on the scene of the conflict, which are called violations of the provisions of the Ottawa Convention, which the (ICRC) follows up through subsequent field investigations and inspection the victims after they have been injured.(ICRC) also prepares and disseminates the necessary reports on violations of international humanitarian law. This mechanism urges violating states to take measures contrary to the act of violation, and assists the Committee and its offices in performing their humanitarian functions under the four Geneva Conventions<sup>58</sup>. Despite the important role played by the (ICRC) , this role covers only international armed conflicts and does not extend to non-international armed conflicts<sup>59</sup>, This poses a major challenge in ensuring the implementation of the provisions and principles of the four Geneva Conventions and the Ottawa Convention, especially since the Commission is not a judicial body for the suppression of violations and violations, but its role is limited to oversight and ensuring the application of international humanitarian law.

### **Second Topic:** The Positive and Negative Results of the 1997 Ottawa Convention.

The successful implementation of agreements and treaties does not come about merely by concluding and signing them by states, nor even after they enter into force. This success depends administratively and formally on periodic follow-up by the state parties and launching relevant evaluation workshops that identify gaps in them and attempt to fill them, and work towards the implementation of their provisions and the measurement of ratios and figures specific to their themes and objectives.

### **Section I: The Positive Results of Implementing the Ottawa Convention in Reality.**

There are (152) States Parties to the Treaty<sup>60</sup>, and according to the criterion of the short period in which the issue of anti-personnel mines was raised before the international community, three-quarters of the States Parties in the world are signatories to the Treaty. This is exceptional and a clear indication of the widespread international rejection of the use and possession of anti-personnel mines<sup>61</sup>. Ms. Helen Durham, Director

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<sup>56</sup> Waqas Nasser, Previous Reference, pp. 202&203, Also refer to the publications of the International Committee of the Red Cross, via the following link: <https://www.icrc.org/ar/document/scars-war-yemens-disabled>.

<sup>57</sup> Perspectives on the International Committee of the Red Cross, Selections from the International Journal of the Red Cross, Issue 888, Vol. 94, 2012. Through the following link: [www.icrc.org](http://www.icrc.org).

<sup>58</sup> Ahmed Fathi Surur, "International Humanitarian Law - Guide to National Application", Dar Al-Mustaqbal Al-Arabi, 2003, p. 296.

<sup>59</sup> Waqas Nasser, Previous Reference, pp. 205&206.

<sup>60</sup> Report of the Global Mine Observatory 2002, "Towards a Mine-Free World", Executive Summary, August 2002, p. 7. 6\*7\*8. The Observatory's website at the following link: [www.icbl.org/lm](http://www.icbl.org/lm).

<sup>61</sup> The Previous Reference.

of International Law and Policy at (ICRC), estimated that since the Ottawa Convention entered into force (20) years ago, the number of anti-personnel mine victims, killed and wounded (mostly civilians), has decreased from (20,000) to (3,500) people annually<sup>62</sup>, and the production and transfer of new anti-personnel mines has practically ceased. By the year (2016), (48) non-State armed groups have signed and are largely committed not to use anti-personnel mines<sup>63</sup>. Twenty years after the Convention's entry into force, (162) countries have signed the Convention, meaning more than (80%) of it. Since (1999), (28) State Parties have completed clearance operations on their lands, clearing about 2,200 square kilometres of land, and destroying 51 million mines from Member States storage<sup>64</sup>.

The international cooperation provided for in the Convention on the right of States Parties to request assistance from another Party to the Convention for the transfer of equipment, the exchange of scientific and technological information, the care and rehabilitation of mine victims, the development of mine risk education programmes and the destruction of stockpiles are among the factors that make the Ottawa Convention successful in achieving its objectives<sup>65</sup>. One indicator of the success of the Ottawa Convention is that between May 2000 and 2022, there were no recorded cases of use of mines by states, armed groups or rebels that had previously used anti-personnel mines<sup>66</sup>.

With regard to the global production of anti-personnel mines, (41) states have ceased production of such mines, including the largest producers in 1970, 1980 and 1990. Eight of the (12) largest producers and exporters of mines in the past (30) years are now States Parties to the Mine Ban Treaty and have completely ceased production and export, namely: Belgium, Bosnia and Herzegovina (former Yugoslavia), Bulgaria, the Czech Republic, France, Hungary, Italy and the United Kingdom. Each State Party has also submitted the necessary reports on its efforts to convert all its previous production equipment, namely: Albania, Argentina, Bosnia and Herzegovina, Brazil, Bulgaria, Canada, Cuba, Czech Republic, Denmark, France, Hungary, Italy, Japan, Peru, Portugal, South Africa, Spain, Sweden, Switzerland and the United Kingdom<sup>67</sup>, in the framework of enhancing transparency and their commitment to the implementation of the Anti-Personnel Mine Ban Convention.

Based on the foregoing, the Ottawa Convention of 1997 had many positive elements, supported by statistics recorded after its entry into force, at various levels, some of which was mentioned in the study. However, like any other convention, it was not without negative elements in its implementation, which constituted gaps that were exploited by other states and parties, through which they were able to evade the implementation of its provisions and articles.

## Section II: The Negative Results of Implementing the Ottawa Convention in Reality.

The failure of the three most important industrialized countries in the world, the United States of America, Russia and China, to join the Ottawa Agreement constituted a major weakness in the agreement and opened the way for them to circumvent its content and tempt some member states to abandon the application of some of its provisions, especially with regard to trade, Article (1), Paragraph (c), which stated ".Each State Party undertakes never under any circumstance to assist, encourage or induce, in any way, anyone to engage in any activity prohibited to a State Party under this Convention". Here it can be said that any state that is

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<sup>62</sup> Landmine Action Manual, Geneva International Centre for Humanitarian Landmine Clearance, February 2005, Second Edition, p. 13.

<sup>63</sup> Dr. Helen Durham, "Why the Mine Ban Convention Was Worth Fighting for and Still Is", an article published on 4/4/2016 on the website of the International Committee of the Red Cross via the following link: <https://www.icrc.org/ar/document/why-mine-ban-convention-was-worth-fighting-and-still>.

<sup>64</sup> Waqas Nasser, Previous Reference, pp. 171 & 172.

<sup>65</sup> The Previous Reference.

<sup>66</sup> Report of the Global Mine Observatory 2002, "Towards a Mine-Free World", Executive Summary, August 2002, pp. 11. 12. The Observatory's website at the following link: [www.icbl.org/lm](http://www.icbl.org/lm).

<sup>67</sup> The Previous Reference.

not a party to the agreement can participate in an armed conflict or hostile acts of another state in which that state uses anti-personnel mines<sup>68</sup>, which is what is happening today in the armed conflicts in Yemen, Iraq, Syria and Ukraine. For the purpose of reducing the Convention's legal gaps, states parties held periodic meetings resulting in three conferences, The first was held in Nairobi in (2004), and the second was held in Colombia in (2009), followed by the third in Mozambique in (2014)<sup>69</sup>, and since it is not possible to expand on the recommendations of the three conferences that need further research. This study will provide some of the recommendations of the Third Conference held in Mozambique in (2014), which are a plan of action adopted by the States Parties called the "Maputo" Plan of Action, runs from (2014 to 2019), with the aim of improving the implementation of the Ottawa Convention 1997, and to achieve by (2025) the Convention's main objective of reducing the use of anti-personnel mines to the extent possible. The plan included key elements to reduce the Convention's negatives, which summarized as follows:

1. Globalization of the Action Plan: This plan was characterized by globalism by calling on countries that have not yet acceded to the Convention, calling on them to join it and participate in its activities, and to make a collective effort to condemn all acts that violate the provisions of the Convention, whether committed by States, armed organizations or informal armies. The conference also called on countries to engage in necessary and binding national plans to remove mines from the lands, especially since there are countries that are considered infested with mines, including, for example, Afghanistan, Yemen, and Iraq<sup>70</sup>.
2. Stockpile destruction: States that have failed in their obligations have undertaken to submit their plan of action in conformity with the reports required to destroy their stockpiled mines, and share this information with States Parties in order to ensure cooperation and transparency in the implementation of the Convention's provisions.
3. Demining: The third conference confirmed that thirty countries have fully implemented demining on their territories<sup>71</sup>. The conference set the standards that States Parties must follow in demining (volume, quality and specificity of implementation), which means a clear and time-bound plan of action for demining. In addition to approving post-demining development and reconstruction plans.
4. Victim Assistance: States Parties have pledged to provide various types of assistance to mine victims and those injured by mines, not limited to material and medical support, health care programs and their rehabilitation, which is their right under the Universal Declaration of Human Rights, but States must also fully engage them in society and help them to integrate socially despite the injuries they have sustained.
5. International cooperation and assistance: The Third Conference recommended the establishment of bilateral, regional and international coordination mechanisms among States parties to ensure the implementation of the Ottawa Convention, through the exchange of experiences and data within the framework of national action plans.
6. Information exchange and transparency: This recommendation requires countries to submit detailed reports on their mine stockpiles, strive not to exceed the minimum set by Ottawa

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<sup>68</sup> Waqas Nasser, Previous Reference, pp. 172, 173 & 174.

<sup>69</sup> The Previous Reference, pp. 175,176 & 177.

<sup>70</sup> Report titled "Mines: A Danger Threatening Yemenis," Adel Dashila, 1<sup>st</sup> September 2022, Carnegie Endowment Centre, website: <https://carnegieendowment.org/sada/87801>.

<sup>71</sup> Maputo Action Plan, the official website of the Anti-Personnel Mine Ban Convention at: <https://www.apminebanconvention.org>.



Convention, which must be used for the purpose of mine clearance training, and commit to destroying everything that exceeds the permitted quantity.

7. Measures to ensure compliance: One of the most important recommendations of the Third Conference is that States parties undertake to take actions and measures to promote proper compliance in the application of the Ottawa Convention. These measures include not to suppress and conceal information from any State that does not apply or contravene the provisions of the Convention, as well as the failure to permit any activities in the territory of States parties that constitute a breach of the Convention.
8. Support for the implementation of the Convention: This refers to the financial support provided by countries to ensure the proper implementation of the Convention. This support includes all stages of implementation, starting with the ban on the use of anti-personnel mines and their removal in the world, in addition to raising the level of national financial support for the plan to dispose of mines stockpiled or available on their territory. This recommendation also means financial support for the Implementation Support Unit of the 1997 Ottawa Convention, which is responsible for implementing the legal and international mechanisms for implementing the Convention.

In general, it can be said that the Ottawa Convention of 1997 constitutes an exceptional case among international conventions and treaties, and it is almost the only one that brought together the international community of countries, governmental and non-governmental organizations, as it included the necessary mechanisms for the application of their provisions in an attempt to put an end to States' military ambitions and ambitions, on the one hand, and to reduce the human and material casualties caused by mines, on the other. However, the figures documented and issued in recent years constitute a major shock in parallel to all the legal and operational trajectories to restrict the use and prohibition of anti-personnel mines mentioned in this study. The Landmine Observatory for the International Campaign to Ban Landmines (ICBL) reported that thousands of people had been killed or injured by explosive devices in (2020), a six-fold increase in the rate per year<sup>72</sup>. Some (30) years after the conclusion of the 1997 Ottawa Convention, it is estimated that there are about (110) million landmines in the world. It is distributed by (40%) of the estimated number in the Arab countries and in a simple comparison between the cost of mine production ranging from (\$3) to (\$30), The cost of removing it ranging from (\$300) to (\$1,000)<sup>73</sup> We find that the material factor constitutes a huge obstacle to the clearance of landmines around the world, In particular, it requires the monitoring of substantial financial budgets that are limited by political developments and developments in the world's armed conflicts.

In contrast, Jordan was the first Arab country to adhere to the deadline stipulated in the Ottawa Mine Ban Treaty and declared itself completely free of landmines, having removed approximately (360,000) landmines (anti-personnel and anti-tank) in an area of 10.5 square kilometres along the Jordanian-Syrian border.

In Egypt, despite the geographical and climatic difficulties, the Egyptian governments have cleared more than 2,000 square kilometres on the northern coast, and as a result the tourist city of El Alamein was built and reconstructed on the Mediterranean coast<sup>74</sup>. As for Yemen, the total number of mines and explosives removed by the "Qassam" project for demining, funded by the King Salman Centre for Relief and Humanitarian Action during (2018-2019), amounted to clearing more than (344) thousand mines and

<sup>72</sup> Article titled "The Number of Victims of Landmines in the World Remains High". Published on (11<sup>th</sup> November 2021), web link:

<https://www.swissinfo.ch/ara/politics/%D9%85-%D8%B1%D8%AA%D9%81%D8%B9%D8%A7/47101818>

<sup>73</sup> Mohamed Allam El-Sayed, a study entitled "40% of the World's Mines are Located in Arab countries", Egypt, published in the Gulf Views Magazine (Gulf Centre for Studies) Issue 149, dated 3 May 2020, at the following link:

[https://araa.sa/index.php?view=article&id=4985:40-3-30&Itemid=172&option=com\\_content](https://araa.sa/index.php?view=article&id=4985:40-3-30&Itemid=172&option=com_content)

<sup>74</sup> Ahmed Abu Al-Wafa, "International Responsibility of Mine-laying States in Egyptian Territory", Egyptian Journal of International Law, Issue 57, 2001, p. 12.

explosive devices planted by irregular armed groups extending over an area of 9.5 million square kilometres. While in Kuwait<sup>75</sup>, which was able to reduce the risk of mines after the invasion of Iraq, official statistics from Kuwait announced the clearing of (1.7) million mines, and more than (300) thousand mines are still buried and hidden underground in different areas and neighbourhoods of the country<sup>76</sup>.

Irregular armed groups are an obstacle to the implementation of the 1997 Ottawa Convention, and despite the ICRC's mechanism of action to communicate and work with informal armed groups by obliging them to sign protocols guaranteeing their compliance with the provisions of the Ottawa Convention, these groups in more than one area of the world continue to constitute a breach and a threat to the application of the Convention, particularly with the absence of any control over the performance of these groups, which can be described as relative.

In summary, the United Nations is striving through its international efforts to achieve a mine-free world<sup>77</sup>. Despite all international efforts at the legal and institutional levels, some major States, as mentioned earlier, remain outside the 1997 Ottawa Convention.

Weapons technology and the world's new arms race also pose a challenge to the implementation of the Anti-Personnel Mine Ban Convention, especially as new mines are now laid (25) times faster than their removal rate, and modern techniques may be able to explore and locate mines, but it will not prevent attempts to place them if states continue to use landmines<sup>78</sup>, and here we cannot rely on noble attitudes and principles towards the realization of their strategic interests and military objectives.

This path refers us to the concept of responsibility, which is intended to be the responsibility of the State that is acting contrary to the Ottawa Convention. It is a profound legal concept that calls for new research into the statement of principles governing a state's responsibility in armed conflict, particularly with regard to the use of anti-personnel mines. In brief, the state's responsibility is first for the actions and practices carried out by its armed forces, then its responsibility for the elimination of remnants of war, since anti-personnel mines are long-lasting and are regarded as remnants of war that threaten human security. Here, the importance of the Convention on the Limitation and Prohibition of Anti-Personnel Mines and its annexes, as well as previous conventions that paved the way for it, is highlighted in the obligation of States to comply with the concepts of limitation and prohibition and their established mechanisms, especially as the principles governing States' conduct in conflicts are customary.

The main objective of the Anti-Personnel Mine Ban Convention is to put an end to the suffering of those affected by these mines. To achieve this objective, it was necessary to combine two tracks at the same time: the track of humanitarian measures on the one hand and the track of mine clearance on the other. These measures can be summarized as follows<sup>79</sup>:

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<sup>75</sup> Abdullah Yousef Al-Ghanim, "Landmines and the Destruction of the Kuwaiti Environment, One of the Crimes of the Iraqi Aggression", Kuwait Centre for Research and Studies, Kuwait, 1998, pp. 389-390.

<sup>76</sup> The Previous Reference, Addressed the Status of Demining in Several Arab countries.

<sup>77</sup> The Previous Reference.

<sup>78</sup> The Previous Reference.

<sup>79</sup> Waqas Nasser, Previous Reference, pp. 271, 272.

- i. All states shall abide by the provisions of the comprehensive ban stipulated in the Convention.
- ii. Destroying anti-personnel mine stockpiles and demining mined areas.
- iii. Assistance to mine victims.

To achieve these targets, states must cooperate with each other, exchange experiences and adhere to the principle of transparency and take action to prevent any violations of the Mine Ban Convention.

In conclusion, it seems from the foregoing that the Treaty of Ottawa is the ideal framework for addressing the scourge of anti-personnel mines, but in fact the Treaty was somewhat deficient, and in the forefront, it ignored the responsibility of states that placed mines in the territory of other States, which runs counter to the well-established principle in international law of respect for the territorial integrity of other states by each sovereign state, and each state cause deliberate harm to another state is obligated by correcting its errors at its expense, and the theory of international responsibility for the accountability of those States must therefore be noted. In the text of Article (6), Paragraph (3): "Each State Party in a position to do so shall provide assistance for the care and rehabilitation, and social and economic reintegration, of mine victims....", this phrase is flexible, leaving each state to decide whether or not it is in such a situation, which cannot constitute a sufficient basis for the specific obligations upon the state. Furthermore, if the parties do not respect the rules of the Ottawa Convention, the mechanism for monitoring the parties' obligation to apply is likely to bring to the attention of the Security Council this issue, which may involve the possibility of imposing sanctions on certain parties in cases and not applying them to others, while the basis in this case must be merely judicial mechanisms away from the Security Council. In addition to these shortcomings, the Treaty has gaps in the absence of an integrated mechanism to track progress in the clearance of anti-personnel mines from mine-affected states, as the inspection function relies on the annual report to determine Member States' compliance with the provisions of the Treaty. Consequently, there is no guarantee of the credibility and accuracy of these government reports, in other words, there is no effective mechanism for inspecting Member States, as well as the inability to implement the Convention's obligations in relation to clearance operations, owing to the lack of required human resources and to ensure the necessary funding.

## Conclusion

It is clear that the devastating effects of landmines extend to economic aspects, particularly in countries whose economy depends on agriculture, as well as livestock losses. Landmines also destroy infrastructure, disrupt power plants and drinking water plants, sabotage railways and roads, impede the exploration of mineral resources such as oil and gas exploration, as well as impede tourism projects. Landmines damage the environment, contaminate and poison the soil as a result of leakage of explosive substances that result in the soil's inability to absorb water and rupture its components, thus undermining its fertility and productivity.

Landmines also impede humanitarian assistance, peacekeeping operations, reconstruction and economic development, as well as the restoration of normal social conditions after the end of the conflict. The horrific effects of landmines have become a reason for concerted international, regional and local efforts to confront and eliminate this threat.

After completing the details of the subject matter of this study, reference can be made to several outcomes and recommendations of this study, which can be summarized as follows:

## Outcomes

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- The spread of mines in many agricultural countries has disrupted agricultural production activity in these countries that depend on the agricultural sector for their production, especially small countries in North Africa and Asia.
- The Convention opened the door to new cooperation, represented by the role played by international non-governmental organizations in establishing concepts of peace in the behaviour of states during armed conflicts.
- The 1997 Ottawa Convention still faces many challenges, including: the accession of all countries to it to become binding without exception, and the necessity of respecting this convention and committing to implementing it not only by states, but also by unofficial or irregular armed groups.
- The radical treatment of the mine problem is still incomplete, due to the shortcomings in efforts to strengthen legal accountability for perpetrators of violations, in obligating states to clear and demine sites and lands after the cessation of military operations, and in providing the necessary support and compensation to those harmed as a result of the use the mine weapons.
- There is a gap in the Ottawa Convention that obliges countries to clear the territories under their control of mines, without holding the country that placed them on the borders of another country responsible, and this has strained the budgets of these other countries, especially the small ones with limited financial resources.

## Recommendations

- The Convention must include the restriction and prevention of the use of anti-vehicle mines and anti-mechanisms, which are used to achieve as many human losses as possible and to identify appropriate international economic sanctions. Such comprehensiveness can be achieved by amending certain provisions of the 1997 Ottawa Convention or adopting a protocol to the Convention.
- The establishment of an international institution or body related to the 1997 Ottawa Convention; In order to control of the application of its provisions, whose functions are to hold accountable states and parties that have committed violations of the provisions of the Convention and have broad powers similar to those of the International Court of Justice.
- Finding mechanisms for action that require informal armed groups to abide by the Convention's provisions and hold them accountable for any violation committed by them under the authority of the state responsible for them.
- Promote prior awareness of the seriousness of anti-personnel mines in societies, especially those suffering social and political conflicts that can turn into armed conflicts at any time, and alert to the risks of the manufacture of such mines, especially primitive mines.
- The failure of the United States of America, Russia and China to accede to the Ottawa Convention could be addressed by applying the principle of restricting the right to choose methods of war by belligerents, which remains conditional on refraining from using weapons, missiles and methods of warfare that cause excessive pain or unnecessary pain.

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