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## Nongovernmental Organizations and International Humanitarian Law

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The increasing influence of nongovernmental organizations (NGOs) constitutes a significant development in contemporary international law. This development, however, does not seem to have been a dramatic departure from the past, for a recent study traces NGO influence on international governance to the late eighteenth century; it suggests a cyclical pattern in the participation of NGOs in international lawmaking—emergence (1775–1918), engagement (1919–1934), disengagement (1935–1944), formalization (1945–1949), underachievement (1950–1971), intensification (1972–1991), and empowerment (1992–?).<sup>1</sup>

It is widely acknowledged that the “intensification” period began with NGO participation in the 1972 United Nations Conference on the Human Environment in Stockholm; continued at the 1974 and 1984 UN World Population Conferences in Bucharest and Mexico City, the 1974 UN World Food Conference in Rome, the 1925 and 1985 UN Women’s Conferences in Mexico City and Nairobi, and the 1976 UN Habitat Conference in Vancouver; and culminated with the UN World Summit for Children in New York in 1990.

The “empowerment” era began with the UN Conference on Environment and Development (UNCED) in Rio de Janeiro in 1992, which attracted over

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650 NGOs. A special NGO forum was convened, and NGOs were able to influence governments in the process of negotiations that resulted in the Rio Declaration, Agenda 21, and the Global Climate and Biodiversity Conventions.<sup>2</sup>

Ever since that time, the expanding role of NGOs in reaching international decision makers has become a normal feature of the international landscape. Thus, it is a valid assertion that in the recent past NGOs have played a growing role in influencing policy makers. This trend is reflected in the involvement of NGOs in World Bank decisions on development projects. NGO representatives have participated both directly and indirectly in multilateral negotiations on critical issues—human rights, environment, and trade,<sup>3</sup> for example. On the regional level, NGOs have been engaged in the process of shaping human rights.<sup>4</sup> The term “civil society” perhaps better captures the essence of what these organizations are and what they do better than “nongovernmental organization,” which has come under criticism as inadequately descriptive of their work.<sup>5</sup>

In the Vienna Declaration Programme of Action, adopted at the Vienna World Conference on Human Rights in 1993,<sup>6</sup> the contribution of NGOs was especially acknowledged:

The World Conference on Human Rights recognizes the important role of non-governmental organizations in the promotion of all human rights and in humanitarian activities at national, regional and international levels. The World Conference on Human Rights appreciates their contribution to increasing public awareness of human rights issues, to the conduct of education, training and research in this field, and to the promotion and protection of all human rights and fundamental freedoms. While recognizing that the primary responsibility for standard-setting lies with States, the Conference also appreciates the contribution of non-governmental organizations to this process. In this respect, the World Conference on Human Rights emphasizes the importance of continued dialogue and cooperation between governments and non-governmental organizations.<sup>7</sup>

Two recent examples of the extent of NGO influence in international decision making are the World Court Project and the NGO Coalition for an International Criminal Court. The World Court Project was an international citizens' initiative to obtain an advisory opinion from the International Court of Justice on the legality of the threat or use of nuclear weapons. Officially launched in 1992 by three international nongovernmental organizations, the initiative was aimed at influencing decision makers at the World Health

Organization (WHO) and the United Nations General Assembly to make the necessary request of the Court, since citizens groups are not allowed by the rules of the Court to seek such an opinion.<sup>8</sup> The Project succeeded; both the WHO and the General Assembly made requests. The second example, the NGO Coalition for an International Criminal Court, has successfully coalesced the efforts of a number of grassroots organizations and “like-minded” governments all over the world toward the establishment of an international criminal court.<sup>9</sup>

The purpose of this chapter is to study how NGOs, including the International Committee of the Red Cross (ICRC), were instrumental in influencing policy makers on two particular issues—blinding laser weapons and antipersonnel landmines. Thus the discussion will focus on NGO contributions toward the development of international humanitarian law on these topics. It should be noted that the body of international humanitarian law of armed conflict primarily consists of the series of Hague Conventions of 1899 and 1907,<sup>10</sup> the four Geneva Conventions of 1949<sup>11</sup> and their two Protocols of 1977,<sup>12</sup> and the 1980 Conventional Weapons Convention.<sup>13</sup>

The role of the ICRC in the formation, application, and monitoring of international humanitarian law is too well known to need any documentation, but I will begin with a summary of the Red Cross movement and of the development of international humanitarian law (with special emphasis on the role of the ICRC) in order to provide the appropriate historical context for an appreciation of the role of NGOs in the development of norms related to blinding laser weapons and landmines.

### The ICRC and International Humanitarian Law

The Red Cross movement began in the 1860s as a response to the publication of Henry Dunant’s *A Memory of Solferino*, which recounted the dreadful experience of thousands of wounded soldiers in the aftermath of the June 1859 battle of Solferino in northern Italy during the wars of Italian independence.<sup>14</sup> With four citizens of Geneva, Dunant set up the International Standing Committee for Aid to the Wounded Soldiers, which subsequently became the International Committee of the Red Cross.<sup>15</sup> The movement today consists of several national Red Cross and Red Crescent societies, founded by the ICRC, which cooperate with the ICRC but are independent entities: the International Conference of the Red Cross; the League of Red Cross Societies; and the Research and Teaching Center of the International Red Cross, known as the Henry Dunant Institute.

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The ICRC succeeded in persuading the Swiss government to convene in 1864 an international diplomatic conference, in which twelve States were represented, that resulted in the signing of the 1864 Geneva Convention for the Amelioration of the Condition of the Wounded in Armies in the Field.<sup>16</sup> Under the treaty, ambulances and military hospitals were “recognized as neutral, and as such, protected and respected by the belligerents as long as they accommodate wounded and sick;” hospital and ambulance personnel had “the benefit of the same neutrality when on duty, and while there remain any wounded to be brought in and assisted;” “wounded and sick combatants, to whatever nation they belong, shall be collected and cared for;” and “hospitals, ambulances and evacuation parties” were distinguished by a uniform flag bearing “a red cross on a white ground.”<sup>17</sup>

Subsequently, a treaty concluded in 1899 made applicable the principles of the 1864 treaty to the wounded, sick, and shipwrecked at sea; the 1864 and 1899 treaties were later revised in 1906 and 1907, respectively.<sup>18</sup> In 1920, the ICRC sent a letter to the League of Nations Assembly urging that asphyxiating gases be banned.<sup>19</sup> In 1929, after the experience of the First World War, it took the initiative and convened a diplomatic conference in Geneva at the invitation of the Swiss Government to adopt a much improved treaty on the treatment of the wounded and sick on land; it also negotiated a separate Convention on the Treatment of Prisoners of War.<sup>20</sup>

The tragedies of the Spanish Civil War and World War II led the ICRC to initiate moves further to revise and develop the earlier conventions. The Swiss government called another diplomatic conference in Geneva in 1949, the result of which was the four Geneva Conventions of 1949, for whose monitoring and application the ICRC was made responsible.

The ICRC’s primary role pertaining to the 1949 Geneva Conventions is to help wounded, sick, and shipwrecked members of armed forces and also prisoners of war. Its delegates visit places of detention, internment, and work where there are captive persons; delegates approach the detaining power where appropriate and inspect the living quarters, treatment, and food of the captives; and they work toward improving the captives’ conditions. In enemy territory or occupied areas, the ICRC acts on behalf of civilian populations. Under Article 3, common to all four 1949 Geneva Conventions, it also functions as a neutral intermediary in non-international armed conflicts. In such conflicts, the parties are bound to apply enumerated fundamental principles. The ICRC’s Central Tracing Agency searches for missing persons and exchanges family messages between people separated by armed conflict. In

addition, the ICRC may be called upon to provide relief such as food, medicine, and clothing for civilian populations suffering from war.

The ICRC's initial purpose of providing care for sick and injured soldiers in war has remained intact. The range and scope of the ICRC's functions, however, have expanded considerably. To illustrate, under the 1949 Geneva Conventions the ICRC is given the special task of supervising criminal trials of prisoners of war in case the protecting power, a neutral State that protects prisoners of war, cannot exercise these functions. As Article 10 of the Convention on Prisoners of War provides, if the belligerent powers cannot agree on a neutral State to serve as the protecting power, "the Detaining Power shall request or shall accept . . . the offer of the services of a humanitarian organization, such as the International Committee of the Red Cross, to assume the humanitarian functions performed by Protecting Powers under the present Convention."<sup>21</sup>

The Geneva Conventions especially mandate that signatory parties recognize and respect at all times the special position of the ICRC in its humanitarian activities of providing relief shipments to civilian internees and inhabitants of occupied territories.<sup>22</sup>

The ICRC has been vigilant in ensuring that revisions and further developments of the existing international humanitarian law instruments take place when they become necessary. Thus, in 1955 and 1956 it proposed draft rules for the protection of civilian populations against the effects of war. Its 1956 proposals included a ban on "weapons whose harmful effects, which resulted in particular from the dissemination of incendiary, chemical, bacteriological, radioactive or other agents, could spread to an unforeseen degree or escape . . . from the control of those who employ them. . . ." <sup>23</sup> But because of the Cold War, the proposed rules did not receive serious consideration.<sup>24</sup>

Subsequently, in 1965, the ICRC undertook to study the possible revisions to the 1949 Conventions at the 20th International Conference of the Red Cross, held in Vienna in 1965.<sup>25</sup> The Conference adopted a resolution enumerating the following principles:

- That the right of the parties to a conflict to adopt means of injuring the enemy is not unlimited.
- That it is prohibited to launch attacks against the civilian populations as such.
- That distinction must be made at all times between persons taking part in the hostilities and members of the civilian population, to the effect that the latter be spared as much as possible.

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- That the general principles of the law of war apply to nuclear and similar weapons.<sup>26</sup>

It is also important to note that on 19 December 1968 the UN General Assembly adopted a resolution inviting the Secretary-General to carry out studies for the revision of earlier conventions on international humanitarian law "in consultation with the International Committee of the Red Cross."<sup>27</sup> The resolution was in response to a resolution adopted at the International Conference on Human Rights in Tehran in April-May 1968 requesting the General Assembly to invite the Secretary-General to study steps "to secure the better application of existing humanitarian international conventions and rules in all armed conflicts" and to inquire into the "need for additional international humanitarian conventions or for possible revision of existing Conventions to ensure the better protection for civilians, prisoners of war and combatants in all armed conflicts and the prohibition and limitation of the use of certain methods and means of warfare."<sup>28</sup>

In 1969, the participants at the 21st International Red Cross Conference at Istanbul<sup>29</sup> officially requested the organization to undertake the task of revising and updating the 1949 Geneva Conventions, and the ICRC legal staff initiated the preparatory work. Consultations between governments and Red Cross Societies under the auspices of the ICRC continued from 1971 to 1974. In February 1974 the government of Switzerland, which is the depository State of the 1949 Geneva Conventions, convened a diplomatic conference to discuss the draft protocols prepared by the ICRC.

The Diplomatic Conference on the Reaffirmation and Development of International Humanitarian Law Applicable in Armed Conflicts met in yearly sessions from 1974 to 1977. The United Nations, governments, and the ICRC participated, and the draft texts prepared by the ICRC formed the basis of deliberations and negotiations and eventually the final text that emerged. At the end of the fourth session, on 8 June 1977, delegates of 102 States adopted Protocol I relating to the Protection of Victims of International Armed Conflicts, and Protocol II relating to the Protection of Victims of Non-International Armed Conflicts.<sup>30</sup>

At the Diplomatic Conference, deliberations also began on imposing possible restrictions or prohibitions on the use of certain conventional weapons, such as napalm and other incendiary weapons, mines, or booby traps, but no conclusion was reached on this subject. Thus, the United Nations convened a special conference to address these issues. The Special Conference met in two sessions, the first in 1979 and the second in 1980. On 10 October 1980, it adopted 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 (the Weapons Convention), with three annexed protocols:<sup>31</sup> Protocol I, the Non-Detectable Fragments Protocol; Protocol II, the Mines Protocol; and Protocol III, the Incendiary Weapons Protocol. These Protocols regulate the use of particular types of conventional weapons considered to pose special risks of unnecessary suffering or indiscriminate effects.

The role of the ICRC in disseminating the content of international humanitarian law is also impressive. Its target groups have been primarily armed forces and combatants, national Red Cross and Red Crescent personnel, civil servants in government ministries, the academic community, primary and secondary school systems, medical professionals, journalists and the media, and the public.<sup>32</sup>

Even a summary review of international humanitarian law must include other important developments in which the ICRC was not a major player. At the outset, it should be noted that on 24 April 1863, during the Civil War, the U.S. War Department published General Orders No. 100, Instructions for the Government of Armies of the United States in the Field. Popularly known as the Lieber Code (after Francis Lieber, who prepared the historic document), it established detailed rules on land warfare for the U.S. Army.<sup>33</sup> Then the 1868 Declaration of St. Petersburg was adopted as a treaty Renouncing the Use in Time of War of Explosive Projectiles Under 400 Grammes Weight.<sup>34</sup>

Subsequently, another important development was the Hague Convention of 1899 with Respect to the Laws and Customs of War on Land, with annexed regulations and a preamble, which included the Martens Clause (named after its author, the Russian delegate de Martens).<sup>35</sup> Under this clause the parties, recognizing that they had not solved all problems, explained that it was not their intention "that unforeseen cases should, in the absence of a written undertaking, be left to the arbitrary judgment of military commanders." Thus, in such unforeseen cases, both civilians and combatants would "remain under the protection and the rule of the principles of the law of nations, as they result from the usages established among civilized peoples, from the laws of humanity, and the dictates of the public conscience."<sup>36</sup>

In addition, in 1907 the Second Hague Peace Conference addressed questions of naval warfare and adopted conventions on this subject. Among other selected significant developments were: a naval conference held in London two years later, which adopted a Declaration Concerning the Laws of Naval War;<sup>37</sup> the Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous or Other Gases, and of Bacteriological Methods of

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Warfare,<sup>38</sup> adopted in 1925 under the auspices of the League of Nations; and the 1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict,<sup>39</sup> adopted under the auspices of the United Nations Educational, Scientific and Cultural Organization (UNESCO).

### **The Blinding Laser Weapons Protocol**

Two NGOs, the ICRC and Human Rights Watch, were instrumental in mounting a campaign which resulted in the adoption of the Blinding Laser Weapons Protocol annexed to the Conventional Weapons Convention.<sup>40</sup> An international review convention, begun in 1994, was aimed at particularly strengthening the Mines Protocol, earlier adopted in 1980.<sup>41</sup> However, because of the work done by these NGOs, it also considered the question of adopting a new protocol on blinding laser weapons. In May 1996 the international review process concluded with the adoption of an amended mines protocol and a new Protocol IV on Blinding Laser Weapons.<sup>42</sup> (The Protocol's provisions will be discussed below, as will the contributions of the ICRC and Human Rights Watch toward its adoption.)

Article 1 of Protocol IV prohibits the employment of "laser weapons specifically designed, as their sole combat function or as one of their combat functions, to cause permanent blindness to unenhanced vision, that is to the naked eye or to the eye with corrective eyesight devices." Under this article, the transfer of any such weapon to any State or non-State entity is prohibited. U.S. Secretary of State Warren Christopher reported that "[a]lthough the prospect of mass blinding was an impetus for the adoption of the Protocol, it was not the intent of the Conference to prohibit only mass blinding. Accordingly, under both the Blinding Laser Protocol and Department of Defense policy, laser weapons designed specifically to cause such permanent blindness may not be used against an individual enemy combatant."<sup>43</sup>

Under Article 2, the parties are obligated to "take all feasible precautions to avoid the incidence of permanent blindness to unenhanced vision" in the employment of laser systems other than those described in Article 1. The article adds that "[s]uch precautions shall include training of their armed forces and other practical measures." According to Secretary Christopher, this requirement is "also fully consistent with the policy of the Department of Defense which is to reduce, through training and doctrine, inadvertent injuries from the use of lasers designed for other purposes, such as range-finding, target discrimination, and communications."<sup>44</sup>

Article 3 provides that “[b]linding as an incidental or collateral effect of the legitimate military employment of laser systems, including laser systems used against optical equipment, is not covered by the prohibition of this Protocol.” Commenting on this article, Secretary Christopher said that it “reflects a recognition of the inevitability of eye injury as the result of lawful battlefield laser use. It is an important measure in avoiding war crimes allegations where injury occurs from legitimate laser uses.”<sup>45</sup>

Article 4 defines permanent blindness as “irreversible and uncorrectible loss of vision which is seriously disabling with no prospect of recovery. Serious disability is equivalent to visual acuity of less than 20/200 Snellen measured in both eyes.” According to the Secretary of State, this definition is “of sufficient precision to prevent misuse or misunderstanding of the term [permanent blindness] which is a critical element of Article 1. It is also consistent with widely accepted ophthalmological standards.”<sup>46</sup>

Under the procedures contained in the Weapons Convention, this Protocol will enter into force six months after twenty States have notified their consent to be bound. The scope of the Protocol is limited to the scope of the Convention, which extends it to international armed conflicts and to internal conflicts for “national liberation.”

The ICRC had addressed the issue of antipersonnel laser weapons at an experts meeting in 1973; many specialists considered the cost of the use of such devices to outweigh their benefits and thus were of the opinion that their use would be unlikely.<sup>47</sup>

Subsequently, at Government Experts Conferences convened by the ICRC in Lucerne (September-October 1974)<sup>48</sup> and Logano (January-February 1976),<sup>49</sup> the discussion on antipersonnel laser weapons occurred in the context of deliberations on the developments of future weapons and possible restrictions on specific weapons.<sup>50</sup> Several participating experts stated their assessment that the development of such weapons was “unlikely in the near future.”<sup>51</sup> However, the ICRC again addressed the subject at four experts meetings that it convened specifically on battlefield laser weapons between 1989 and 1991.<sup>52</sup> Sweden and Switzerland, among other nations, had raised the issue at the 25th International Conference of the Red Cross and were keen to undertake efforts to ban blinding laser weapons.

In the Prologue to the reports of the experts meetings, ICRC President Cornelio Sommaruga said that the ICRC was concerned with the effects of these weapons because of its goal to alleviate the suffering caused by armed conflicts, and that the attempt was to “supervise developments so that States may take suitable preventive action.”<sup>53</sup> In his words; “Given today’s rapid

technological developments, the widespread proliferation of weapons and the continued eruption of numerous armed conflicts, it is clear that weapons developments need to be supervised in order to try to prevent the conflicts of tomorrow wreaking even more suffering than those of today.”<sup>54</sup>

Participants at these meetings included, in addition to experts on international humanitarian law, specialists in laser technology, psychiatry, ophthalmology, and military medicine. After deliberations on a wide range of aspects of the possible military use of laser technology and its physical, psychological, and medical ramifications, the discussions centered on legal and policy implications of the use of such weapons and whether the causing of permanent blindness was in violation of international humanitarian law. The ICRC concluded that blinding was more severe and debilitating than most other war injuries. Battlefield stress and post-traumatic stress syndrome were both determined to occur more frequently in persons blinded in battle.<sup>55</sup>

At the conclusion of the April 1991 meeting, several regulatory measures aimed at prohibiting the use of blinding laser weapons were identified.<sup>56</sup> Subsequently the ICRC stated that blinding as a method of warfare “is a superfluous injury and a cause of unnecessary suffering, both of which are prohibited under existing international humanitarian law.”<sup>57</sup> It vigorously advocated the banning of blinding laser weapons.

Human Rights Watch was also active in undertaking studies and generating public support to ban blinding laser weapons. In May 1995 it published a report on U.S. blinding-laser weapons.<sup>58</sup> After an overview of tactical laser weapons and of the status of U.S. and foreign tactical laser weapons programs, Human Rights Watch recommended that “parties to the 1980 Conventional Weapons Convention should adopt a new protocol at the September 1995 Review Conference which would prohibit blinding as a method of warfare and ban blinding tactical laser weapons.”<sup>59</sup>

In September 1995, Human Rights Watch published another study, *Blinding Laser Weapons—The Need to Ban a Cruel and Inhumane Weapon*.<sup>60</sup> It analyzed the development of tactical laser weapons programs in the United States and China,<sup>61</sup> especially noting the Chinese ZM-87 portable Laser Disturber, weighing seventy-three pounds and capable of transmitting a beam at several wavelengths.<sup>62</sup> The Chinese effort to market the ZM-87,<sup>63</sup> designed specifically to injure eyesight, was a matter of serious concern and could not have gone unnoticed by participants at the Review Conference of the 1980 Conventional Weapons Convention.

The study also discussed legal and humanitarian considerations, specifically the prohibition against unnecessary suffering and superfluous injury and the need to balance military necessity against humanitarian considerations, suggesting that

[p]ublic opinion might be more negatively affected by large numbers of blind than large numbers of dead, because the blind “would remain in view and be distressful for society.” Furthermore, the use of weapons designed to produce extreme handicaps or excessive damage have always produced unnecessary strain on peace negotiations, later peaceful relations between nations no longer at war, and societal infrastructure. Consequences to society are an important political factor in deciding whether to ban a particular weapon.<sup>64</sup>

The Human Rights Watch study analyzed the language of the Draft Protocol, which was originally proposed by Sweden, and recommended strengthening it.<sup>65</sup> It also urged that blinding as a method of warfare be prohibited.<sup>66</sup>

A detailed discussion of the application of international humanitarian law to blinding laser weapons—what constitutes “unnecessary suffering” and “superfluous injury,” the concept of proportionality, “military necessity,” and the Martens Clause is beyond the scope of this paper.<sup>67</sup> Similarly, how to construe Protocol IV, an admittedly important issue, will not be discussed here.<sup>68</sup> Nor will I review the pros and cons of the assertion that blinding as a method of warfare should have been prohibited, as suggested by the ICRC and Human Rights Watch. The Protocol only prohibits the employment of “laser weapons specifically designed, as their sole combat function or as one of their combat functions, to cause permanent blindness.”

The pertinent point to be stressed here is that these human rights organizations had a powerful impact upon parties to the Review Conference and were able to persuade them that in the application of international humanitarian law the social costs involved in weapons designed to cause blindness should be especially taken into account, and that blinding laser weapons should be banned.

As noted earlier, the United States was eventually convinced of the need to ban blinding laser weapons. Thus, in transmitting the Protocol on Blinding Laser Weapons to the Senate for advice and consent, President William J. Clinton said on 7 January 1997 that “[t]hese blinding lasers are not needed by our military forces. They are potential weapons for the future, and the United States is committed to preventing their emergence and use. The United States supports the adoption of this new Protocol.”<sup>69</sup>

### **The Convention on Antipersonnel Landmines**

A treaty banning antipersonnel landmines, the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction,<sup>70</sup> was signed in Ottawa, Canada, on December 3-4, 1997.<sup>71</sup> The Convention was adopted in Oslo in September 1997 and will come into force six months after forty States have ratified it.<sup>72</sup> The UN Secretary-General is designated as the Convention's depository.<sup>73</sup> The International Campaign to Ban Landmines, comprising several NGOs, including the ICRC, Human Rights Watch, Vietnam Veterans of America Foundation, and Physicians for Human Rights, was instrumental in mounting a successful campaign which culminated in the adoption of the Convention.<sup>74</sup>

This section will first note the pertinent provisions of the Landmines Convention and will then look briefly at the two earlier efforts, Protocol II of the 1980 Conventional Weapons Convention and its amended version adopted by the Review Conference of that Convention in 1996. The concluding part will discuss the role of NGOs.

*The Provisions of the Landmines Convention.* As the title of the Landmines Convention suggests, the treaty prohibits the use, stockpiling, production, and transfer of antipersonnel mines and mandates their destruction. In its preamble, States parties stressed "the role of public conscience in furthering the principles of humanity as evidenced by the call for a total ban of anti-personnel mines and recogniz[ed] the efforts to that end undertaken by the International Red Cross and Red Crescent Movement, the International Campaign to Ban Landmines and numerous other non-governmental organizations around the world." They also

[based] themselves on the principle of international humanitarian law that the right of the parties to an armed conflict to choose methods or means of warfare is not unlimited, on the principle that prohibits the employment in armed conflicts of weapons, projectiles and materials and methods of warfare of a nature to cause superfluous injury or unnecessary suffering and on the principle that a distinction must be made between civilians and combatants.

Under the Convention, States parties undertake never under any circumstances:

- a) To use anti-personnel landmines;

- b) To develop, produce, otherwise acquire, stockpile, retain or transfer to anyone, directly or indirectly, anti-personnel mines;
- c) To assist, encourage or induce, in any way, anyone to engage in any activity prohibited to a State Party under this Convention.<sup>75</sup>

Parties undertake within four years “to destroy or ensure the destruction of all stockpiled anti-personnel mines” that they own or possess, or that are under their jurisdiction or control.<sup>76</sup> Moreover, they undertake to destroy all antipersonnel mines in mined areas under their jurisdiction or control within ten years;<sup>77</sup> to make every effort to identify, mark, and ensure the safety of landmine areas;<sup>78</sup> and to seek extension of the deadline for completing the destruction of antipersonnel mines for a period up to ten years.<sup>79</sup> The decision on extension is to be made according to set criteria and procedures.<sup>80</sup>

Consistent with earlier definitions of landmines in Protocol II and revised Protocol II, an antipersonnel mine is defined as one “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>81</sup>

The Convention contains detailed provisions on international cooperation and assistance. To illustrate, States parties undertake

to facilitate and . . . participate in the fullest possible exchange of equipment, material, and scientific and technological information concerning the implementation of this Convention. The States Parties shall not impose undue restrictions on the provision of mine clearance equipment and related technological information for humanitarian purposes.<sup>82</sup>

They are also to provide assistance for mine victims and a mine-awareness program,<sup>83</sup> as well as mine clearance and related activities through the UN system, international or regional organizations, NGOs, or bilaterally, or by contributing to the UN Voluntary Trust Fund for assistance in mine clearance or other regional funds set up for demining.<sup>84</sup> In addition, they are to provide assistance for the destruction of stockpiled antipersonnel mines.<sup>85</sup>

Within six months of the Convention’s entry into force, States parties are to report to the UN Secretary-General their national legal, administrative, and other measures, including penal sanctions, taken to implement the Convention within their jurisdiction or control;<sup>86</sup> the total number of all stocked antipersonnel mines and the status of programs for their destruction; and the types and quantities of the mines destroyed since the entry into force of the Convention.<sup>87</sup> Such information is to be annually updated and reported.<sup>88</sup> Among other pertinent provisions, the Secretary-General is to convene the

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first meeting of the States parties within one year after the Convention's entry into force,<sup>89</sup> to be followed by annual meetings until the first Review Conference, five years after the entry into force of the Convention.<sup>90</sup> NGOs may be invited as observers.<sup>91</sup>

The Convention outlines amendment procedures, requiring a majority of the two-thirds of the States parties present and voting.<sup>92</sup> It provides for NGO attendance at amendment conferences as well,<sup>93</sup> for consultation and cooperation among States parties, and the use of the good offices of the meeting of the States parties as the means for settlement of disputes. The Convention also sets forth detailed provisions on facilitation and clarification of compliance,<sup>94</sup> prohibits reservations,<sup>95</sup> and requires a six-month notice period for a State's withdrawal.<sup>96</sup>

Though it is a much-improved document compared with the earlier attempts (as will be discussed below), one weakness of the Convention is that the enforcement provisions are not very effective. Similarly, its applicability to non-State actors should perhaps have been strengthened. However, to allow negotiations on the prohibitions of specific weapons to succeed, some compromises had to be made.

***Protocol II of the Convention on Conventional Weapons.*** As mentioned earlier, Protocol II of the 1980 Conventional Weapons Convention was an attempt to regulate antipersonnel landmines in aid of the Convention's major purpose of prohibiting the deployment and use of weapons which cause unnecessary suffering, especially to noncombatant civilians.<sup>97</sup> It did not succeed in prohibiting landmines, and the regulations it established were weak, lacking provisions for implementation and enforcement.<sup>98</sup>

The definition of landmines under the Protocol was similar to the one now contained in the 1997 Landmines Convention—"any munition placed under, on or near the ground . . . and designed to be detonated . . . by the presence, proximity, or contact of a person."<sup>99</sup> Also prohibited was the use of mines or booby traps "in all circumstances . . . in offense, defense or by way of reprisals, against the civilian population . . . or against individual civilians."<sup>100</sup>

The indiscriminate use of conventional weapons that are not directed against a military objective, or which use delivery methods that cannot be directed at specific military targets, or that when employed "may be expected to cause incidental loss of civilian life, injury to civilians, damage to civilian objects, or a combination thereof, which would be excessive in relation to the concrete and direct military advantage anticipated" were outlawed.<sup>101</sup> Additionally, use of

such weapons in areas of civilian concentration was prohibited when combat has ceased in those areas or does not appear imminent.<sup>102</sup>

A major deficiency in the Protocol was that combatants were not to be liable if they issued appropriate warnings or cordoned the areas of deployment from civilian access.<sup>103</sup> Furthermore, the purpose of protecting civilians was never accomplished, although the Protocol did contain some safeguards, such as requiring the recording and publication of locations of antipersonnel mine deployment and the taking of precautions to protect civilians from the "effects of minefields, mines, and booby traps,"<sup>104</sup> providing for international cooperation in the removal of such weapons,<sup>105</sup> and recording the location of the buried conventional weapons.

Thus, at the request of States parties to the Conventional Weapons Convention, the United Nations convened a conference to review the provisions of the Convention, especially its Protocol II, the Landmine Protocol, which met in the fall of 1995 and resumed sessions in January and April-May 1996.<sup>106</sup> It should be noted that the General Assembly invited interested NGOs, especially the ICRC, to attend the Conference.<sup>107</sup>

Although the amended Protocol II did not ban antipersonnel landmines, the prior Protocol was strengthened through an agreement among the participants to impose stricter restrictions on the use, export, and production of these weapons.<sup>108</sup> The scope of its application was expanded to include internal conflicts, albeit with some limitations.<sup>109</sup> Among general restrictions, provisions concerning effective advance warnings and parties' responsibilities were added.<sup>110</sup> Thus, each party to a conflict is responsible for landmines placed by it and for their clearance, removal, destruction, or maintenance under the terms contained in the amended Protocol.<sup>111</sup> The terms are contained in Article 10. The use of certain mines, such as self-deactivating mines, equipped with an anti-handling device designed to make the mine capable of exploding after the mine ceases to function, is also prohibited,<sup>112</sup> as are mines with mechanisms specifically designed to detonate in the presence of commonly available mine detectors<sup>113</sup> and also nondetectible mines, unless their use is in compliance with the Technical Annex (2).<sup>114</sup>

The amended Protocol contained restrictions on the use of antipersonnel mines other than remotely delivered mines,<sup>115</sup> on the use of remotely delivered mines,<sup>116</sup> and on the transfer of mines.<sup>117</sup> It also contained provisions on recording and publication requirements for landmines, expanding the earlier requirements under the 1980 Protocol II.<sup>118</sup> States parties are now required to clear, remove, destroy, or maintain all minefields, mined areas, and mines.<sup>119</sup>

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Among other provisions included in the amended Protocol II are those on technical cooperation and assistance,<sup>120</sup> and those for protection of all forces or missions from the effects of mines in any area under the parties' control.<sup>121</sup> States parties have also agreed on compliance procedures and consultation measures.<sup>122</sup>

Although the amended Protocol II strengthened the provisions of the 1980 Protocol II by regulating, in addition to previous limits on their use, mine transfers, and production, there was concern over the effectiveness of these regulations. The requirements that mines be manufactured with self-destruction and self-deactivation devices reduce the risk of accidental detonation by a failure in the self-destruction process, but the exceptions to the requirements still present risks.

Furthermore, the major defect in the 1980 Protocol II, relating to the indiscriminate effect of landmines, remained unresolved in that amended Protocol II allowed the use or transfer of existing mines other than nondetectable mines (which did not have to be removed for another nine years if a party could not immediately comply with the requirement to include a detectable mechanism in mines produced before January 1, 1997).<sup>123</sup> Enforcement mechanisms also remain deficient. For these reasons, the effort was begun to draft a convention to prohibit landmines.

***The NGO Contribution.*** Perhaps on no other issue of public concern have NGOs achieved so spectacular a success as on the issue of banning landmines. Several studies by NGOs, especially *Landmines: A Deadly Legacy*,<sup>124</sup> *Anti-Personnel Landmines—Friend or Foe?*<sup>125</sup> and several reports on the impact of landmines in specific countries (such as Angola,<sup>126</sup> Cambodia,<sup>127</sup> El Salvador, and Nicaragua<sup>128</sup> and Iraq),<sup>129</sup> were instrumental in educating the public about the nature and gravity of the problem caused by landmines. Thus, this work set the stage for the Review Conference and—because of the NGOs' persistence—led to the eventual prohibition of antipersonnel landmines by adoption of the Landmines Convention in December 1997.

The International Campaign to Ban Landmines, which began operating in 1991 and comprised 250 groups, coordinated NGO activities.<sup>130</sup> In 1992, the Campaign issued a joint call for an international ban,<sup>131</sup> and by 1993 it had been joined by representative NGOs from several countries. Ultimately, the campaign "succeeded over fourteen months in persuading countries to join a major international treaty, a process that usually takes years."<sup>132</sup>

Canada provided leadership in what became known as the Ottawa Process. In October 1996 the Canadian government gathered representatives from

"like-minded" countries and asked them to return to Ottawa in December 1997 to sign an agreement to ban antipersonnel mines by the year 2000.<sup>133</sup>

The Conference held a "Mine Action Forum" and produced an Agenda for Mine Action, and the United Nations Development Programme announced that it envisages setting up "mine action centers" in poor countries where development is impeded because of scattered mines.<sup>134</sup> At the signing conference, government representatives and NGO experts discussed its next step, the Ottawa Process II, an initiative to obtain international commitment to furthering mine clearance, victim assistance, and rehabilitation.<sup>135</sup>

The demining process is extremely expensive, costing up to a thousand dollars per mine for removal, compared to the procedure for laying the mines in the first place. To address this financial obstacle, the United States announced it will host an international demining donor conference in May 1998; nearly \$400 million has already been donated by Norway, Japan, Canada, and the European Commission, among others, to aid in the work over the next five years.<sup>136</sup>

### Conclusion

Nongovernmental organizations have played a significant role in the efforts to ban blinding laser weapons and antipersonnel landmines. In educating the public on the crisis caused by these inhumane weapons and in influencing decision makers in many countries to agree upon conventions to prohibit these weapons, NGOs were and continue to be instrumental in ensuring that established legal tradition in which the use, production, stockpiling, and export of unjustifiably inhumane weapons is prohibited applies explicitly to these two weapons as well.

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### Notes

1. Charnovitz, *Two Centuries of Participation: NGOs and International Governance*, 18 MICH. J. INT'L L. 183, 183-191 (1997).

2. See generally NANDA, *INTERNATIONAL ENVIRONMENTAL LAW AND POLICY* (1995).

3. The debate continues regarding the role of NGOs in the World Trade Organization (WTO), although at the December 1996 ministerial conference they were granted observer status. See Charnowitz, *supra* note 1, at nn. 851-55 and accompanying text. The WTO agreement states that its General Council "may make appropriate arrangements for consultation and co-operation with non-governmental organizations concerned with matters related to those of the WTO." Agreement Establishing the World Trade Organization, April 15, 1994, art. V(2), reprinted in 33 I.L.M. 1125, 1146 (1994).

4. See, e.g., Olz, *Non-Governmental Organizations in Regional Human Rights Systems*, 28 COLUM. HUM. RTS. L. REV. 307 (1997).

5. See Chernowitz, *supra* note 1, at 188.

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6. U.N. Doc. A/CONF.157/24 (1993), *reprinted in* 32 I.L.M. 1661 (1993).
7. *Id.*, sec. 38.
8. See generally NANDA & KRIEGER, *NUCLEAR WEAPONS AND THE WORLD COURT*, ch. 5 (forthcoming 1998).
9. The General Assembly adopted the resolution by consensus confirming that the diplomatic conference to finalize the treaty establishing the court will be held in Rome from June 15 through July 17, 1998. It had accepted the draft resolution proposed by the Chairman of the Sixth Committee on the establishment of an international criminal court. U.N. Doc. A/C.6/52/L.16 (1997).
10. Especially Hague Convention No. II with Respect to the Laws and Customs of War on Land, with annexed Regulations, July 29, 1899, 32 Stat. 1803, T.S. No. 403. The series comprises many instruments. For illustration purposes, they also include: Hague Convention No. III for the Adaption to Maritime Warfare of the Principles of the Geneva Convention of August 22, 1864, July 29, 1899, 32 Stat. 1827, T.S. No. 396. Hague Convention No. II of 1899 was revised by Hague Convention No. IV Respecting the Laws and Customs of War on Land, Oct. 18, 1907, 36 Stat. 2277, T.S. No. 539. The 1907 series also includes, among others, Hague Convention No. VIII Relative to the Laying of Automatic Submarine Contact Mines, Oct. 18, 1907, 36 Stat. 2332, T.S. No. 541; Hague Convention No. IX Concerning Bombardment by Naval Forces in Time of War, Oct. 18, 1907, 36 Stat. 2351, T.S. No. 542; Hague Convention No. V Respecting the Rights and Duties of Neutral Powers and Persons in Case of War on Land, Oct. 18, 1907, 36 Stat. 2310, T.S. No. 540; Hague Convention No. XI Relative to Certain Restrictions with Regard to the Exercise of the Right of Capture in Naval War, Oct. 18, 1907, 36 Stat. 2396, T.S. No. 544; and Hague Convention No. XIV Prohibiting the Discharge of Projectiles and Explosives From Balloons, Oct. 18, 1907, 36 Stat. 2439, T.S. No. 546.
11. Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field, Aug. 12, 1949, 6 U.S.T. 3114, T.I.A.S. No. 3362, 75 U.N.T.S. 31 [hereinafter First Geneva Convention]; Geneva Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea, Aug. 12, 1949, 6 U.S.T. 3217, T.I.A.S. No. 3363, 75 U.N.T.S. 85 [hereinafter Second Geneva Convention]; Geneva Convention Relative to the Treatment of Prisoners of War, Aug. 12, 1949, 6 U.S.T. 3316, T.I.A.S. No. 3364, 75 U.N.T.S. 135 [hereinafter Third Geneva Convention]; Geneva Convention Relative to the Protection of Civilian Persons in Time of War, Aug. 12, 1949, 6 U.S.T. 3516, T.I.A.S. No. 3365, 75 U.N.T.S. 287 [hereinafter Fourth Geneva Convention].
12. Protocols I & II Additional to the Geneva Conventions of 1949, *opened for signature* December 12, 1977, *reprinted in* 16 I.L.M. 1391, 1442 (1977) [hereinafter Protocols I, II].
13. Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons, U.N. Doc. A/CONF.95/15, October 27, 1980, Annex I, 19 I.L.M. 1523 (1980).
14. See KALSHOVEN, *CONSTRAINTS ON THE WAGING OF WAR* 8-9 (1987).
15. See *id.* at 9.
16. See Bory, *Origin and Development of International Humanitarian Law* 9-10 (ICRC, Nov. 1982).
17. Cited in KALSHOVEN, *supra* note 14, at 9.
18. *Id.* at 10.
19. Mirimanoff-Chilikane, *The Red Cross and Biological and Chemical Weapons*, in *A TREATISE ON INTERNATIONAL CRIMINAL LAW* 356, 357 (Bassiouni & Nanda eds., 1973).
20. See *id.* at 10.
21. Third Geneva Convention, *supra* note 11, art. 10(3).
22. Fourth Geneva Convention, *supra* note 11.

23. Draft Rules for the Limitation of the Damages Incurred By the Civilian Population in Time of War, art. 14, in *THE LAWS OF ARMED CONFLICTS* 251, 255 (Schindler & Toman eds., 3d ed. 1988).
24. See KALSHOVEN, *supra* note 14, at 21–22.
25. International Committee of the Red Cross, 20th International Red Cross Conference, Vienna (Oct. 1965).
26. *Id.*, at Resolution XXVIII.
27. KALSHOVEN, *supra* note 14, at 21.
28. *Id.* at 19–20.
29. International Committee of the Red Cross, 21st International Red Cross Conference, Istanbul (1969).
30. See generally Bory, *supra* note 16, at 14–16.
31. The Convention entered into force on December 2, 1983.
32. See Surbeck, *Conference on International Humanitarian and Human Rights Law in Non-International Armed Conflicts*, Apr. 12–13, 1983: *Dissemination of International Humanitarian Law*, 33 AM. U. L. REV. 125, 128 (1983). See also ZYS, *PRACTICAL GUIDE FOR NATIONAL SOCIETIES ON METHODS OF DISSEMINATION OF INTERNATIONAL HUMANITARIAN LAW AND THE PRINCIPLES AND IDEALS OF THE RED CROSS* (1983).
33. Instructions for the Government of Armies of the United States in the Field, General Orders No. 100, April 24, 1863, reprinted in *THE LAW OF WAR: A DOCUMENTARY HISTORY* 161 (Friedman ed., 1972). See generally RICHARD HARTIGAN, *LIEBER'S CODE AND THE LAW OF WAR* (1983).
34. Declaration Renouncing the Use, In Time of War, of Explosive Projectiles Under 400 Grammes Weight, Nov. 29/Dec. 11, 1868, reprinted in *DOCUMENTS ON THE LAWS OF WAR* 31 (Roberts & Guelff eds., 2d ed. 1989). See also KALSHOVEN, *supra* note 14, at 12–13.
35. The Preamble to the Hague Convention IV Respecting the Laws and Customs of War on Land, *supra* note 10, contains the Martens Clause.
36. Article 1(2) of Additional Protocol I to the Geneva Conventions of August 12, 1949, contains the same principle. Additional Protocol I to the Geneva Conventions of August 12, 1949, June 8, 1977, art. 1, *supra* note 12, at 1391.
37. See KALSHOVEN, *supra* note 14, at 16.
38. See *id.* at 16–17.
39. See *id.* at 37–39.
40. Review Conference of the States Parties 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, Additional Protocol 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, Conf. Doc. CCW/CONF.I/7 (Oct. 12, 1995).
41. For the text of the 1980 Convention and the Protocol, see U.N. Doc. A/CONF.95/15, Oct. 27, 1980, Annexes, 19 I.L.M. 1523 (1980).
42. For the text of the protocols, see 35 I.L.M. 1206 (1996).
43. Quoted in Nash Leigh, *Contemporary Practice of the United States Relating to International Law*, 91 AM. J. INT'L L. 325, 347 (1997).
44. *Id.*
45. *Id.*
46. *Id.*

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47. ICRC, WEAPONS THAT MAY CAUSE UNNECESSARY SUFFERING OR HAVE INDISCRIMINATE EFFECTS, Report on the Work of Experts 69 (1973).
48. CONFERENCE OF GOVERNMENT EXPERTS ON THE USE OF CERTAIN CONVENTIONAL WEAPONS (Lucerne, Sept. 24-Oct. 18, 1974): REPORT (1975).
49. CONFERENCE OF GOVERNMENT EXPERTS ON THE USE OF CERTAIN CONVENTIONAL WEAPONS (2d Sess., Lugano: Jan. 28-Feb. 26, 1976): REPORT (1976).
50. See generally Kalshoven, *Conventional Weaponry: The Law From St. Petersburg to Lucerne and Beyond*, in ARMED CONFLICT AND THE NEW LAW 251 (Meyer ed., 1989).
51. Doswald-Beck & Cauderay, *The Development of New Anti-Personnel Weapons*, INT'L REV. OF THE RED CROSS, Nov.-Dec. 1990, at 565.
52. BLINDING WEAPONS: REPORTS OF THE MEETINGS OF EXPERTS CONVENED BY THE INTERNATIONAL COMMITTEE OF THE RED CROSS ON BATTLEFIELD LASER WEAPONS 1989-1991 (Doswald-Beck ed. 1993) [hereinafter BLINDING WEAPONS REPORTS].
53. *Id.* at 11.
54. *Id.*
55. *Id.* at 43-58, 134-39, &179-83.
56. See generally *id.* at 353-60.
57. ICRC, BLINDING WEAPONS REPORTS 7 (1995).
58. Human Rights Watch Arms Project, United States—U.S. Blinding Laser Weapons (May 1995).
59. *Id.* at 15.
60. Human Rights Watch Arms Project, Blinding Laser Weapons—The Need to Ban a Cruel and Inhumane Weapon (Sept. 1995) [hereinafter Blinding Laser Weapons].
61. *Id.* at 7-12.
62. *Id.* at 11.
63. See Cook, *China's Laser "Blinder" Weapon for Export*, JANE'S DEF. WKLY, May 27, 1995, at 3; Arkin, *Pentagon Sees the Light*, BULL. OF ATOMIC SCIENTISTS, Nov. 1995, at 76; China Markets Blinding Laser, JANE'S INTELL. REV., June 1, 1995, at 1.
64. Blinding Laser Weapons, *supra* note 60, at 32 (footnotes omitted).
65. *Id.* at 33-34.
66. Comments on Article 1, *id.* at 33.
67. With respect to international humanitarian law, see generally PICTET, DEVELOPMENT AND PRINCIPLES OF INTERNATIONAL HUMANITARIAN LAW (1985). As to the application of international humanitarian law to blinding laser weapons, see McCall, *Blinded by the Light: International Law and the Legality of Anti-Optic Laser Weapons*, 30 CORNELL INT'L L.J. 1, 21-36 (1997); Peters, *Blinding Laser Weapons: New Limits on the Technology of Warfare*, 18 LOY. L.A. INT'L & COMP. L.J. 733, 744-53 (1996).
68. See, e.g., Carnehan, *Unnecessary Suffering, the Red Cross and Tactical Laser Weapons*, 18 LOY. L.A. INT'L & COMP. L.J. 705, 731 (1996):

By declaring the undefined concept of "blinding as a method of warfare" unlawful and making exaggerated claims for the destructiveness of lasers, the ICRC has helped to lay the basis for false war crime charges against any soldier captured with a portable laser. . . .

Protocol IV, like any Treaty, should . . . be applied in good faith, in accordance with the ordinary meaning of its terms. . . . As part of the law of war, Protocol IV is penal legislation and should be carefully construed to give reasonable notice of the exact prohibited behavior. Improper application may result in unfair war crimes prosecution of prisoners of war captured with legitimate target-marking or range-finding lasers.

Assessing the legality of weapons under the rule against unnecessary suffering and superfluous injury requires a balancing of military utility against anticipated injuries. Human Rights organizations, including the ICRC, are singularly ill-equipped to assess the military aspect of this equation.

But see *supra* notes 57-60 and accompanying text; McCall, *supra* note 67; Peters, *supra* note 67.

69. S. TREATY DOC. NO. 105-1, at IV (1997), cited in Nash Leigh, *supra* note 43, at 326.

70. Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction, <<http://www.vvaf.org/landmines/us/updates/events97/treaty929.html>> [hereinafter Landmines Convention].

71. See *Big Names Missing From Landmine Treaty Signed in Ottawa*, JANE'S DEF. WKLY, Dec. 10, 1997, at 4; *Landmine Ban. Happyish Days*, THE ECONOMIST, Dec. 6, 1997, at 48 [hereafter ECONOMIST].

72. Landmines Convention, *supra* note 70, art. 17(1).

73. *Id.* art. 21.

74. See Priest, *U.S. Activist Receives Nobel Peace Prize for Landmine Campaign*, WASH. POST, Oct. 11, 1997, at A1; HUMAN RIGHTS WATCH & PHYSICIANS FOR HUMAN RIGHTS, *LANDMINES: A DEADLY LEGACY* xi (1993) [hereinafter DEADLY LEGACY].

75. Landmines Convention, *supra* note 70, art. 1(1).

76. *Id.*, arts. 1(2), 4.

77. *Id.*, art. 5(1).

78. *Id.*, art. 5(2).

79. *Id.*, art. 5(3).

80. *Id.*, art. 5(4).

81. *Id.*, art. 2(1).

82. *Id.*, art. 6(2).

83. *Id.*, art. 6(3).

84. *Id.*, art. 6(4).

85. *Id.*, art. 6(5).

86. *Id.*, arts. 7, 9.

87. *Id.*, art. 7.

88. *Id.*

89. *Id.*, art. 11(2).

90. *Id.*, arts. 11(2), 12.

91. *Id.*, art. 11(4).

92. *Id.*, art. 13.

93. *Id.*, art. 13(2).

94. *Id.*, art. 8.

95. *Id.*, art. 19.

96. *Id.*, art. 20.

97. U.N. Conference on Prohibitions or Restrictions of Use of Certain Conventional Weapons: Protocol on Prohibitions or Restrictions on the Use of Mines, Booby Traps, and Other Devices (Protocol II), April 10, 1981, 19 I.L.M. 1523, 1530 (1980) [hereinafter Protocol II].

98. See generally Anderson & Schurtman, *The United Nations Response to the Crisis of Landmines in the Developing World*, 36 HARV. INT'L L.J. 359 (1995); Smith, *A Plea for the Total Ban of Landmines By International Treaty*, 17 LOY. L.A. INT'L & COMP. L.J. 507 (1995); and Eckberg, Note: *Remotely Delivered Landmines and International Law*, 33 COLUM. J. TRANSNAT'L L. 149 (1995).

99. Protocol II, *supra* note 97, art. 2(1).

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100. *Id.*, art. 3(3).
101. *Id.*
102. *Id.*, art. 4(2).
103. *Id.*, art. 4(2)(b).
104. *Id.*, art. 7(3).
105. *Id.*, art. 9.
106. See Final Report, Review Conference of the States Parties 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, U.N. Doc. CCW/CONF.I/16, at 1 (1996) [hereinafter Final Report].
107. *Id.* at 4.
108. *Id.* at 11. See generally Petrarca, *An Impetus of Human Wreckage? The 1996 Amended Landmine Protocol*, 27 CAL. W. INT'L L.J. 205 (1996); Owsley, *Landmines and Human Rights: Holding Producers Accountable*, 21 SYRACUSE J. INT'L L. & COM. 203 (1995).
109. Final Report, *supra* note 106, at 14–16, Annex B.
110. *Id.* at 16-17, Annex B, art. 3.
111. *Id.*, art. 3(2).
112. *Id.*, art. 3(6).
113. *Id.*, art. 3(5).
114. *Id.* at 18, art. 4.
115. *Id.* at 18, art. 5.
116. *Id.* at 19, art. 6.
117. *Id.* at 20, art. 8.
118. *Id.* at 28, Technical Annex 1.
119. *Id.* at 22, art. 10.
120. *Id.* at 22, art. 11.
121. *Id.* at 23-24, art. 12.
122. *Id.* at 26-27, arts. 13–14.
123. *Id.* at 29, Tech. Annex 2(b)–2(c).
124. DEADLY LEGACY, *supra* note 74.
125. INTERNATIONAL COMMITTEE OF THE RED CROSS, ANTI-PERSONNEL LANDMINES—FRIEND OR FOE? A STUDY OF THE MILITARY USE AND EFFECTIVENESS OF ANTI-PERSONNEL MINES (1996).
126. See AFRICA WATCH, LANDMINES IN ANGOLA (1993).
127. See ASIA WATCH, LANDMINES IN CAMBODIA: THE COWARD'S WAR (1991).
128. See AMERICAS WATCH, LANDMINES IN EL SALVADOR AND NICARAGUA: THE CIVILIAN VICTIMS (1996).
129. See MIDDLE EAST WATCH, HIDDEN DEATH: LANDMINES AND CIVILIAN CASUALTIES IN IRAQI KURDISTAN (1992).
130. See DEADLY LEGACY, *supra* note 74, at xi.
131. See Priest, *supra* note 74.
132. *Id.*
133. See *Legislation and the Landmine*, JANE'S INTELLIGENCE REV. SPECIAL REPORT, Dec. 1, 1997, at 3.
134. See ECONOMIST, *supra* note 71.
135. See *Big Names Missing*, *supra* note 71.
136. See *id.*; *Landmine Detector*, NEW SCIENTIST, Dec. 6, 1997, at 5; ECONOMIST, *supra* note 71.