

I. Humanitarian arms control initiatives

LINA GRIP

In 2013 the states parties to the 2008 Convention on Cluster Munitions (CCM), the 1997 Anti-Personnel Mine (APM) Convention and the 1981 Certain Conventional Weapons (CCW) Convention continued their work to limit the impact of certain weapons on civilians.¹ The greatest achievements of these instruments have been to mitigate new use and to clear land of explosive remnants of war (ERW), leading to a substantial reduction in civilian casualties. Notably, the United Kingdom—formerly a major producer of cluster munitions—declared the complete destruction of its cluster munition stockpile in 2013. The greatest challenges relating to these weapons are violations of the emerging international norms by states that are not parties to the conventions and by non-state actors.

The Convention on Cluster Munitions

The objectives of the CCM are to prohibit the use, production, transfer and stockpiling of cluster munitions that cause unacceptable harm to civilians, and to establish a framework for cooperation and assistance that ensures adequate provision of care and rehabilitation for victims, clearance of contaminated areas, risk-reduction education and destruction of stockpiles. The CCM does not apply to landmines (which are partly covered by the APM Convention).

The theme of the 2013 meeting of states parties was universality—the successive expansion of the number of states parties to the CCM towards global participation—as it remains the area of the convention where progress has been the slowest. By the end of 2013, 84 states were party to the CCM and a further 29 states had signed but not ratified the treaty. Every year additional signatory states have ratified the convention. In 2013 Andorra, Bolivia, Chad, Iraq, Liechtenstein, Nauru, and Saint Kitts and Nevis became full members of the CCM. However, only five new states have joined the CCM regime since its entry into force in August 2010. Significantly, six non-signatories—Cambodia, Ethiopia, Gabon, Mongolia, Palestine and South Sudan, several of which are affected by cluster munition contamination—announced at the 2013 conference that they

¹ For a brief summary and other details of the Convention on Cluster Munitions; the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction; and 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 and its protocols see annex A, section I, in this volume.

intend to join the CCM.² The states that remain outside of the CCM include all major producers of cluster munitions, among them Russia and the United States.

Syria, which is not a party to the CCM, continued to use cluster munitions extensively in 2013. Human Rights Watch (HRW) identified 152 separate locations where the Syrian Government used at least 204 cluster munitions between July 2012 and June 2013, and even more attacks went undocumented.³ These attacks were spread throughout Syria and several sites were repeatedly attacked. One core objective of the CCM is to create a global norm condemning the use of cluster munitions; moreover, the convention specifically requires each state party to ‘make its best efforts to discourage States not party to this Convention from using cluster munitions’.⁴ Thus, although Syria is not a party to the CCM, its use of cluster bombs still poses an implementation challenge for the convention.

In November 2013, 123 countries voted in favour of a United Nations General Assembly resolution condemning the continuing escalation of violence in Syria, including the indiscriminate use of cluster munitions against civilians by the Syrian authorities.⁵ The fact that many of the states voting in favour of the resolution are non-state parties to the CCM may make it tempting to interpret the vote as proof of a CCM norm-building effect beyond its member states. This is not necessarily the case, however, as the indiscriminate use of any weapon against civilians is outlawed by international humanitarian law. The specific mention of cluster munitions (together with a number of other weapon types) in the UN resolution is a small victory for the CCM, but this is overshadowed by the Syrian Government’s continuing violations of international human rights law and international humanitarian law.

In 2013 a report issued by the Cluster Munition Coalition documented unconfirmed reports of cluster munitions use by Myanmar and Sudan.⁶

On a positive note, Chile and the UK completed the destruction of their stockpiled cluster munitions in 2013. The UK had one of the largest stockpiles of cluster munitions of all CCM states parties. Denmark had planned to destroy its stockpiles before the end of 2013, but this was only officially confirmed in early 2014.⁷

² Human Rights Watch, ‘Cluster munitions: Syria use persists but treaty shows progress as many countries destroy stockpiles’, 4 Sep. 2013, <<http://www.hrw.org/news/2013/09/04/cluster-munitions-syria-use-persists>>.

³ Human Rights Watch (note 2).

⁴ Convention on Cluster Munitions (note 1), Article 21(2).

⁵ UN General Assembly Resolution 68/182, 18 Dec. 2013.

⁶ Cluster Munition Coalition, *Cluster Munition Monitor 2013* (International Campaign to Ban Landmines—Cluster Munition Coalition: Geneva, Sep. 2013).

⁷ Danish Ministry of Foreign Affairs, ‘Denmark leads global disarmament, destroys cluster munitions’, 20 Mar. 2014, <<http://um.dk/en/news/newsdisplaypage/?newsID=7ABB4C60-A861-49C1-B727-76FDBC4EDA09>>.

The Anti-Personnel Mines Convention

The APM Convention prohibits, among other things, the use, development, production and transfer of anti-personnel mines. It had 161 states parties at the end of 2013. The convention continues to record substantial achievements in reducing mine casualties and clearing land of landmine contamination.⁸

More non-state armed groups than governments now use landmines. In 2012 non-state armed groups in eight states (Afghanistan, Colombia, Myanmar, Pakistan, Syria, Thailand, Tunisia and Yemen) used landmines—the highest number for five years.⁹ All of these states but Myanmar, Pakistan and Syria are parties to the APM Convention, suggesting that non-state actors' access to and use of landmines pose a serious challenge to the implementation of the convention. Geneva Call's Deed of Commitment for Adherence to a Total Ban on Anti-Personnel Mines and for Cooperation in Mine Action is a mechanism developed outside the APM Convention that allows non-state groups to formally commit themselves to abide by humanitarian norms relating to anti-personnel mines.¹⁰ Although 43 non-state armed groups have signed the deed, no such group had signed up to the ban in seven of the eight states affected by non-state actors' use of landmines in 2013. This suggests a potential correlation between non-state armed groups' commitment and behaviour.

Belarus, Greece and Ukraine remain non-compliant with the APM Convention, having failed to complete the destruction of their stockpiles. The four-year deadline for Belarus and Greece was in 2008 and that of Ukraine was in 2010.¹¹ In 2013 Chad, Niger, Mozambique, Serbia, Sudan and Turkey requested, and were granted, extensions of their clearance deadlines under Article 5 of the convention.¹²

The Certain Conventional Weapons Convention

States parties to the CCW Convention continued to discuss mines other than anti-personnel mines (MOTAPM) at the 2013 meeting of states par-

⁸ International Campaign to Ban Landmines, *Landmine Monitor 2013* (International Campaign to Ban Landmines–Cluster Munition Coalition: Geneva, Nov. 2013), pp. 1–2.

⁹ International Campaign to Ban Landmines (note 8), p. 1.

¹⁰ For the template Deed of Commitment under Geneva Call for Adherence to a Total Ban on Anti-Personnel Mines and for Cooperation in Mine Action and a list of the armed non-state groups that have signed it see Geneva Call, 'Landmine ban', <<http://www.genevacall.org/Themes/Landmines/landmines.htm>>.

¹¹ International Campaign to Ban Landmines (note 8), p. 7.

¹² 13th Meeting of States Parties to the APM Convention, Geneva, 2–5 Dec. 2013, Final report, APLC/MSP.13/2013/6, 16 Dec. 2013, para. 21.

ties, without any notable progress.¹³ The conflicting views of the parties regarding the urgency to restrict MOTAPM impeded the discussions.¹⁴ The annual meeting of experts reporting on Protocol V (on ERW) failed to include MOTAPM in their technical discussions in 2013. The lack of preparatory work on the MOTAPM issue in the group of experts made it difficult to advance discussions in the later negotiations.

The parties to Amended Protocol II of the CCW Convention (on the use of mines, booby-traps and other devices) continued to discuss the humanitarian impact of improvised explosive devices (IEDs) in 2013. Non-state armed groups used IEDs frequently throughout the year, often in populated areas, killing large numbers of civilians. In 2012 (the year for which the most recent data is available) the most prevalent use of IEDs was recorded in Iraq (39 per cent of instances), Pakistan (15 per cent), Syria (15 per cent), Afghanistan (12 per cent) and Nigeria (6 per cent).¹⁵

IEDs have been discussed by the group of experts on Amended Protocol II since 2009.¹⁶ Their activities have included mapping the humanitarian impact of IEDs with the help of external expertise, information sharing and the ‘Compilation of existing guidelines, best practices and other recommendations aiming at addressing the diversion or illicit use of materials that can be used for IEDs’.¹⁷ In 2013 the group considered creating an information-exchange database as a tool to improve information sharing on the diversion and illicit use (including trafficking) of material that can be used for IEDs and other means of reducing the threat posed by such weapons. Legal measures to restrict IEDs under the CCW Convention are perceived as extremely difficult due to the general availability of IED components for legitimate purposes.¹⁸

¹³ 2013 Meeting of States Parties to the CCW Convention, Geneva, 14–15 Nov. 2013, Final report, CCW/MSP/2013/10, 6 Dec. 2013.

¹⁴ For the evolution of the MOTAPM discussion in CCW see Grip, L. and Patton, T., ‘Humanitarian arms control initiatives’, *SIPRI Yearbook 2013*.

¹⁵ Binnie, J. and Wright, J., ‘“Infernal machines”: improvised explosive devices’, *The Small Arms Survey 2013: Everyday Dangers* (Small Arms Survey: Geneva, 2013), p. 224; and Dodd, H. and Perkins, R., *An Explosive Situation: Monitoring Explosive Violence in 2012* (Action on Armed Violence: London, Mar. 2013), p. 25.

¹⁶ 15th Annual Conference of State Parties to Amended Protocol II to the CCW Convention, Report on Improvised Explosive Devices, CCW/AP.II/CONF.15/3, 4 Sep. 2013, p. 1.

¹⁷ 15th Annual Conference of State Parties to Amended Protocol II to the CCW Convention, CCW/AP.II/CONF.15/3 (note 16), p. 4.

¹⁸ 15th Annual Conference of State Parties to Amended Protocol II to the CCW Convention, CCW/AP.II/CONF.15/3 (note 16), pp. 6–7.