



Mine Action and Human Rights

Collective Efforts to Address and Prevent Explosive Ordnance Contamination and its Effects

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- Explosive ordnance (EO) has a multifaceted negative impact on the enjoyment of human rights of people and communities. EO can both directly affect rights, as in the case of violating the right to life by posing a risk of death or serious injuries and can create the conditions that obstruct the full enjoyment of human rights: the fulfilment of the right to food is hindered by the presence of EO and its effects on people's food security.
- Both the sectors of international human rights law (IHRL) and humanitarian disarmament and humanitarian mine action (HMA) have numerous treaties, frameworks, and technical guidelines that can interact in at least three different ways.
 - The Anti-Personnel Mine Ban Convention (APMBC), the Convention on Cluster Munitions (CCM), their related plans of action, and the International Mine Action Standards (IMAS) could be seen as outlining how certain human rights obligations related to EO contamination can be fulfilled.
 - In some cases, the content of human rights rules and obligations can provide more details about how to prioritise HMA tasks. For example, the content and elaborations on the right to food can be very helpful to clarify how certain HMA tasks should be undertaken to contribute to the right to food and food security.
 - HMA and IHRL norms and provisions can mutually strengthen each other. As in the case of international cooperation and assistance, which is considered critical for both HMA and human rights fulfilment.
- Finally, when it comes to actors and institutions, both sectors have their own systems and structures, which should learn to speak and understand each other. Institutions like the UN Human Rights Council, UN treaty bodies, and special procedures can, for example, strengthen the efforts to shed light on forgotten contexts, but it should coordinate with humanitarian disarmament fora, including the APMBC and CCM.
- Similarly, at local and regional levels, there can be a synergy between organisations protecting and promoting human rights and HMA operators, but these efforts should be coordinated to maximise their effectiveness.

The Impact on Human Rights

Explosive ordnance undermines the full enjoyment of human rights, including the right to life, freedom of movement, the right to health, food, house and several other civil, political, economic and social rights.

Explosive ordnance (EO)[i], including landmines and cluster munitions, threatens life and human health, with the high risk of their explosion that can cause death or serious and life-changing injuries. Such risk to life and human health is directly connected to the protection of the right to life.

Furthermore, according to the context of the contaminated area,[ii] the mere presence of EO can affect several other rights, including[iii]:

Obstructing paths and roads used by people and communities and spreading fear among the population.	Self Determination (ICCPR, Art 1 and ICESCR, Art 1), Right to life (ICCPR, Art 6) and Freedom of movement (ICCPR, Art 12)
Preventing or obstructing the access to means and methods of food production and procurement, including access to land	Right to food and adequate standard of living (ICESCR, Art 11; CRC, Art 27), Right to survive (CRC, Art 6)
Preventing or obstructing the access to medical and healthcare facilities and hindering their regular functioning.	Right to the ' enjoyment of the highest attainable standard of physical and mental health (ICESCR, Art 12)
Preventing or obstructing the access to house and land and undermining the enjoyment of property rights.	Right to adequate house and secure tenure (ICESCR, Art 11.1; CRC, Art 27)
Preventing or obstructing the access to schools and education facilities and hindering their regular accessibility and functioning.	Right to education (ICESCR, Art 13, CRC, Art 28) as well as child's right to develop (CRC, Art 6)
Threatening the life and livelihood of children, posing serious dangers for children during their playing	Rights to develop (CRC, Art 6), and right to play (CRC, Art 31)
The presence of EO condition socio-economic dynamics that might result in gender discrimination within families and communities	Women's right to equality and non-discrimination (CEDAW, Art 2)

EO explosions that kill, seriously injure or condition the lives and livelihood of people living in or close to contaminated areas have further impact on the rights of these people.

Survivors of EO-related accidents are recognised by the rights enshrined in the Convention on the Rights of Persons with Disability (CRPD), including the right to be free from direct and indirect discrimination (CRPD, Art 4), to live independently and be included in the community (CRPD, Art 19), to education (CRPD, Art 24), and to receive the highest attainable standard of health (CRPD, Art 25) and all 'reasonable accommodation' necessary (CRPD, Art 5.3).





The Frameworks and Their Interaction

Humanitarian disarmament treaties such as the 1997 Anti-Personnel Mine Ban Convention (APMBC) and the 2008 Convention on Cluster Munitions (CCM) have been influenced by the developments from the humanitarian and human rights sector. Similarly, International Mine Action Standards (IMAS), the main reference for the mine action sector, are clearly oriented to prevent risk for and protect the lives and livelihood of human beings.

The APMBC, CCM and IMAS can interact with human rights treaties and instruments in different ways:

When it comes to prevention of harm, risk reduction and realizing the rights of people living in or near EO contamination, the APMBC, CCM, and IMAS should be seen as instrumental to the protection and fulfilment of human rights. For example:

- Through land release, including survey (IMAS, 08.10 and 08.20) and clearance (APMBC, Art 5; CCM, Art 4; IMAS, 09.10), HMA activities protect the right to life from preventable risk (ICCPR, Art 6), and remove the obstacles to the fulfilment of other rights, including right to food (ICESCR, Art 11), right to health (ICESCR, Art 12), and right to education (ICESCR, Art 13).
- Explosive ordnance risk education (EORE), as outlined at IMAS 12.10, can be seen as another measure to minimise the risk of deaths and serious injury that would breach the provisions on the right to life (ICCPR, Art 6).

At the same time, the provisions of the APMBC and CCM, their plans of action and IMAS explain how the right to life should be protected in case of EO contamination. For example:

- IMAS on surveys and clearance (08.10, 08.20, and 09.10) can be considered as outlining the technical standards through which measuring the state's diligence in protecting the right to life.

HMA treaties, instruments and frameworks also outline the criteria through which assessing states' commitments to prevent and address the human rights consequences of EO contamination. For example:

- The establishment of a mine action programme according to IMAS 02.10 and other similar provisions contained in the plan of actions of the APMBC and CCM can be used to assess the state ability to address EO contamination and thus respect and protect the rights curtailed by EO.

In other cases, the content of human rights provisions and HMA treaties and frameworks overlap, strengthening each other. For example:

- Provisions and standards on victim assistance (APMBC, Art 6.3; CCM, Art 5; IMAS, 13.10) specify the type of activities that can fulfil the rights of EO survivors under the CRPD. At the same time, the CRPD provisions and their interpretation can complement HMA specific norms and standards.
- Standards on EORE and community liaison outline how to approach EO-affected people and communities to understand their views and needs, recognising their agency.

Another important instance of overlap and mutual strengthening between human rights and HMA norms, provisions and standards concerns international cooperation and assistance in the addressing of EO contamination and the prevention of related risks. For example:

- Articles 6 of both the APMBC and CCM refer to international cooperation and assistance in a very similar way to Article 2 of the ICESCR and, if jointly interpreted, these three provisions can integrate each other: ICESCR, Article 2 can support the prioritisation of mine action activities within states and at international level.





Types of Obligations

All the treaties of both fields, including the ICCPR, ICESCR, and other IHRL treaties, the APMBC and the CCM enshrine provisions with obligations for states parties. It is important that the joint interpretation of IHRL and humanitarian disarmament treaties considers the type of obligation that each of the rules enshrine, and the approach adopted in the respective framework. Below are some preliminary suggestions:

Functioning HMA institutions and bodies. Firstly, states need to be in a position to appreciate the presence and the related risks of EO contamination. EO-related dangers are well known, but states need to be in a position to appreciate those dangers in practice. Thus, the requirements of having functioning institutions dedicated to HMA, according to what is prescribed in the APMBC and CCM and the related plans of action should come first.

Protecting the right to life. In line with similar cases regarding preventable risk to life, the protection of the right to life from EO-related dangers should be considered as a due diligence obligation that is measured according to the diligence, means and resources available to the specific state in that specific context.

Clearance obligations (APMBC, Art 5 and CCM, Art 4) and dates for completion should be approached in a twofold way:

- as obligations functional to the protection of the right to life and the fulfilment of other rights (e.g. right to food, right to health, right to a house).
- at the same time, these are also obligations that have their own status and relevance as part of the specific framework of the APMBC and CCM. This means that anti-personnel landmines (APM) and cluster munitions (CM) should be removed regardless of their related degree of danger, as the APMBC and CCM clearly envisage an international community without APM and CM.

Victim assistance obligations (APMBC, Art 6; CCM, Art 5) are obligations that have traditionally benefitted from the presence of human right obligations and their effect in strengthening the respect, protection and fulfilment of survivors' rights, especially through the CRPD.

Removing the obstacles to the fulfilment of rights. On many other occasions, EO contamination can be clearly seen as obstructing the fulfilment of certain rights, such as in the case of EO-contaminated land and the right to food. In these situations, the development of IHRL obligations can support HMA actors, starting with national authorities, to prioritise and direct HMA operations so that these can contribute to the fulfilment of the right that is undermined by EO contamination.



Actors, Institutions and Synergies

The potential of strengthening the link between HMA and human rights and integrating them should be further explored. Like similar situations, this relationship should take into account that both the regimes currently have their own actors and communities of practice.

The different actors, ranging from UN and other international bodies to NGOs and CSOs should learn each other's languages, roles, methodologies and goals, to make sure that the integration is efficient and beneficial to both the communities of practice and sectors.

Global, regional and national levels should all be connected and coordinated, making sure that the experience and expertise developed at every level is shared and directed towards the ultimate goal of addressing and preventing harm.

Global level

- The UN Human Rights Council, especially through the Universal Periodic Review, can support the efforts undertaken at the APMBC, CCM and other humanitarian disarmament fora.
- Treaty bodies and special procedures can collaborate with experts in the humanitarian disarmament sector and promote the studying of specific issues where EO contamination affects the enjoyment of specific rights (e.g. special rapporteur on toxics and human rights).
- HMA and humanitarian disarmament fora, as well as the institutions in charge of the development of technical guidelines, such as the IMAS, should interact with IHRL specialised actors to raise awareness about HMA approaches and methodologies, while appreciating the nuances of specific human rights from IHRL actors.
- Actors and entities at the global level should carefully map out the actors operating at this level, their background, goals and approach to both IHRL and HMA, making sure that all the initiatives to protect the rights of people affected by EO contamination are coordinated.

Regional level

- Regional initiatives in both fields can coordinate, especially when regional organisations are active and engaged with both IHRL and HMA. Often, the regional level is better placed than actors at global level to apply both HMA norms and IHRL relevant to EO contamination.
- Regional entities can also have an important role in mobilising resources and coordinate and promote tailored international cooperation and assistance.
- Regional organisations, including those connected to regional human rights systems, can also have an important role in developing regional approaches to IHRL and their content in line with regional IHRL treaties, which can also inform how HMA actors in the regions approach IHRL.

National level

- For both HMA and IHRL, this should be considered the most important level, as this is the closest to the practical issues related to EO contamination and protection and fulfilment of human rights.
- Wherever this does not already happen, national institutions and entities of the HMA and IHRL sectors should work together, familiarising with the field, language and approach of their colleagues of the other sector.
- Human rights institutions and mine action authorities and centres should work together to integrate IHRL considerations in the fields of HMA, and HMA considerations in IHRL.
- HMA national and international operators present in the country can support the abovementioned efforts, along with other NGOs and CSOs that are concerned with the link between HMA and IHRL.





Abbreviations

APM	Anti-Personnel mines
APMBC	Anti-Personnel Mine Ban Convention
CCM	Convention on Cluster Munitions
CEDAW	Convention on the Elimination of All Forms of Discriminations against Women
CM	Cluster munitions
CRC	Convention on the Rights of the Child
CRPD	Convention on the Rights of Persons with Disabilities
CSO	Civil society organisation
EO	Explosive ordnance
EORE	Explosive ordnance risk education
HMA	Humanitarian mine action
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
IHL	International Humanitarian Law
IHRL	International Human Rights Law
IMAS	International Mine Action Standards
NGO	Non-governmental organisation

End notes

[i] Explosive ordnance (EO) includes mines, cluster munitions, unexploded ordnance, abandoned ordnance, booby traps, other devices, and improvised explosive devices, (IMAS 04.10) [https://www.mineactionstandards.org/standards/04-10/#\[E\]](https://www.mineactionstandards.org/standards/04-10/#[E]).

[ii] Contaminated area: “in the context of mine action, the term refers to ... an area known or suspected to contain explosive ordnance.” (IMAS 04.10) [https://www.mineactionstandards.org/standards/04-10/#\[E\]](https://www.mineactionstandards.org/standards/04-10/#[E]).

[iii] The rights that are listed in the main text are only indicative examples.

[iv] International Covenant on Civil and Political Rights (ICCPR) and International Covenant on Economic Social and Cultural Rights (ICESCR)

