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# WARTIME ENVIRONMENTAL POLLUTION AND ENDANGERMENT: THE LANDMINE SCOURGE AND THE GLOBAL EFFORT TO ELIMINATE IT

DR. THERESA OBY ILEGBUNE\*

## I. INTRODUCTION

Ordinarily, and even among environmentalists and academics, the expression “environmental pollution” refers to the state or process of making the environment – air, water, soil, etc., – dirty, impure or unhealthy, usually by smoke, oil, domestic waste or other waste products from factories and industries. Hardly do people associate such situations with the presence of landmines scattered or buried just below the surface of the ground. But, such landmines are indeed veritable and dangerous pollutants of otherwise safe grounds in public access areas where they exist, in that they render such grounds totally obnoxious, dangerous and unsafe.

An extensive range of environmental problems is now the subject of serious international concern.<sup>1</sup> Such problems include atmospheric pollution, marine pollution, global warming and ozone depletion, the dangers of

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1. See MALCOLM N. SHAW, *INTERNATIONAL LAW* 586 (Cambridge Univ. Press 4th ed. 1997). This may also be measured by the fact that in July 1993, the International Court of Justice established a special Chamber to deal with environmental questions. As of yet, it has heard no cases. R. Ranjeva, *L'Environnement, La Cour Internationale de Justice et sa Chambre Speciale Pour les Questions d'Environnement*, 40 AFDI 433 (1994). See also Treaty of Peace Between the State of Israel and the Hashemite Kingdom of Jordan, Isr.-Jordan, Annex II, IV, art. 18 at 43, Oct. 26, 1994, 34 I.L.M. 43 [hereinafter Israel-Jordan Peace Treaty].

nuclear and other extra-hazardous substances and threatened wildlife species.<sup>2</sup>

First, pollution generated from within a particular state often has a serious impact upon other countries. Secondly, it is now apparent that environmental problems cannot be resolved by states acting individually.<sup>3</sup>

Nigeria is contaminated with Explosive Remnants of War (ERW), primarily as a legacy of the Biafran Civil War that ended in 1970.<sup>4</sup> Contamination was reported across nine states: Abia, Anambra, Akwa Ibom, Benue, Cross River, Delta, Ebonyi, Enugu, and Imo. According to the Minister of Defence, since the end of June 2009, a total of at least 649 Suspected Hazardous Areas (SHAs) had been identified.<sup>5</sup> The extent of any landmine problem is not yet known, although media reports in 2009 suggested that landmines formed part of the residual threat.<sup>6</sup> Nigeria's Article 7 report, submitted in 2009 in compliance with the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction,<sup>7</sup> stated that there were suspected mined areas in the war-affected areas in the Eastern part of Nigeria that might be contaminated with "Biafran," a locally fabricated explosive device which was used as an Anti-Personnel (AP) Landmine.<sup>8</sup>

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2. For endangered wildlife species, see, e.g., M. CARWARDINE, *THE WWF ENVIRONMENT HANDBOOK* (MacDonald & Co. 1990); S. LYSTER, *INTERNATIONAL WILDLIFE LAW* (Cambridge Univ. Press 1985). See also Convention on International Trade in Endangered Species of Wild Fauna and Flora, Mar. 3, 1973, 27 U.S.T. 1087, 993 U.N.T.S. 243 (covering animals and plants); Convention on Biological Diversity, June 5, 1992, 1760 U.N.T.S. 79 (calling, *inter alia*, upon parties to promote priority access on a fair and equitable basis by all parties, especially developing countries, to the results and benefits arising from biotechnologies based upon genetic resources provided by contracting parties), cited in SHAW, *supra* note 1, at 585.

3. SHAW, *supra* note 1.

4. See, e.g., Denni Agbo, *FG Begins Excavation of Biafra War Explosives*, VANGUARD (Apr. 21, 2009), <http://www.vanguardngr.com>; Christopher Isiguzo, *FG Begins Excavation of Civil War Explosives in Abakaliki*, THIS DAY (Apr. 21, 2009), <http://www.landmine.de/archiv/oeffentlichkeitsarbeit/news/news-detailseite/article/fg-begins-excavation-of-civil-war-explosives-nige.html>; Statement of Nigeria, Standing Committee on Mine Clearance, Mine Risk Education and Mine Action Technologies, Geneva, May 27, 2009.

5. *649 Ordinance Locations Found in Nine States*, THIS DAY (June 30, 2009), <http://allafrica.com/stories/200906300392.html>.

6. See *supra* note 4.

7. Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction, Dec. 3, 1997, 2056 U.N.T.S. 211 (entered into force Mar. 1, 1999), available at [http://legal.un.org/avl/pdf/ha/cpusptam/cpusptam\\_ph\\_e.pdf](http://legal.un.org/avl/pdf/ha/cpusptam/cpusptam_ph_e.pdf) [hereinafter Anti-Personnel Mine Ban Convention].

8. ANTI-PERSONNEL MINE BAN CONVENTION ARTICLE 7 REPORT FORM C (2006 - 2009).

In 2004, Nigeria reported that it had “not had mine-related incidents for a very long time.”<sup>9</sup> However, in January 2009, the Ministry of Defence reported that “cases of explosions of unexploded mines have continued to be a threat to the lives of our people causing loss of lives and property.”<sup>10</sup>

The principal purpose of this paper is to discuss the legal aspects of the global efforts to ban and eliminate landmines. In doing this, it is considered necessary to explain what landmines are; the nature and extent of security, social and environmental problems posed by landmines; the history and development of the international campaign to adopt a treaty banning landmines; and efforts made, and still being made, to implement that treaty. In these discussions, Nigeria will be used as a case study.

## II. LANDMINES: WHAT THEY ARE

### A. GENERAL NATURE

One admissible civilian description of a landmine is that it is an encased explosive device that is buried just below the surface of the ground. In the usual technology of its design, it is fired or exploded by the weight of a person or vehicle upon it or even by mere contact or proximity of such bodies.<sup>11</sup> The particular type of landmine with which this paper is concerned is the landmine that is fired or exploded by the weight, contact or proximity of a person (and not a vehicle) and is more technically called an anti-personnel landmine or anti-personnel mine.<sup>12</sup> Where the landmine is designed to be detonated by the weight of a vehicle, it is specially called an *anti-vehicle mine*.

The marine counterpart of a landmine is the *seamine* – also called a submarine mine – which is a piece of underwater explosive weapon fitted with a device that causes it to explode when a ship or submarine enters into close proximity of it.<sup>13</sup> While the use of seamines in maritime warfare is said to date back to the 16th century, the use of landmines as weapons of warfare only became important since World War II.<sup>14</sup>

9. See International Campaign to Ban Landmines [ICBL], *Landmine Monitor Report 2004: Toward a Mine-Free World*, 641 (2004).

10. Juliana Taiwo, *Nigeria: FG to Clear Land Mines in 10 States*, THIS DAY (Jan. 30, 2009), <http://allafrica.com/stories/200901300074.html>.

11. See A.S. HORNBY, OXFORD ADVANCED LEARNER'S DICTIONARY 834 (Oxford Univ. Press 8th International Student ed. 2000).

12. In this paper, the term “landmine” refers specifically to the anti-personnel landmine.

13. *Mine*, THE NEW ENCYCLOPEDIA BRITANNICA, <http://www.britannica.com/technology/mine-weapon> (last visited Apr. 11, 2016).

14. *Id.*

## B. THE SECURITY, SOCIAL AND ENVIRONMENTAL PROBLEMS OF ANTI-PERSONNEL LANDMINES

Anti-personnel landmines have been described as “the world’s worst serial killer”<sup>15</sup> and the most “unforgiving of devices.”<sup>16</sup> The problems that landmines pose to humanity have four main aspects: security, social, economic and environmental – and all these stem principally from the very nature of landmines, the large number of them that exist, and their easy and widespread deployment. As to their nature, since landmines are designed to be fired or exploded by mere weight, contact or proximity of a person, once buried in the ground, there is no way to tell where they have been placed or to disarm them until they are blown up. Landmines are thus adapted to long, almost indefinite, periods of potent existence. Decades after their initial underground deployment and long after the hostility which prompted their use has ceased or even been forgotten, landmines remain still alive and dangerous. Even today, landmines laid during the Second World War continue to be discovered nearly 70 years after the end of the conflict.<sup>17</sup>

Landmines maim, blow up, and sometimes even kill innocent victims.<sup>18</sup> The International Committee of the Red Cross (ICRC) has described the dangers of anti-personnel mines in these graphic words:

These weapons are designed to kill, or more often, to disable permanently their victims. They are specifically constructed to shatter limbs and lives beyond repair. The detonation of a buried anti-personnel ‘blast’ mine rips off one or both legs of the victim and drives soil, grass, gravel, metal, the shattered bone up into the muscles and lower parts of the body. Thus, in addition to the traumatic amputation of the limb, there is a serious threat of secondary infection. . . if they survive a landmine blast,

15. *The World’s Worst Serial Killer*, ONE WORLD MAG., <http://www.oneworld.org/blast/issue2/landmines.html> (last visited Sept. 8, 2012).

16. See International Committee of the Red Cross [ICRC] Mines-Arms Unit, *Banning Anti-Personnel Mines – The Ottawa Treaty Explained*, 2 (1998), available at [http://reliefweb.int/sites/reliefweb.int/files/resources/380834FEEED60AC9C125742C004AF42B-icrc\\_dec1998.pdf](http://reliefweb.int/sites/reliefweb.int/files/resources/380834FEEED60AC9C125742C004AF42B-icrc_dec1998.pdf).

17. See *Landmine and Cluster Munition Monitor Fact Sheet*, LANDMINE AND CLUSTER MUNITION MONITOR (Sept. 2011), <http://archives.the-monitor.org/index.php/LM/Our-Research-Products/Factsheets>

18. According to the ICBL in 2002, Nigeria was not mine-affected. The only two mine incidents ever identified in Nigeria occurred in 2002 and were reported by the media. In January 2002, after an explosion occurred at the Ammunition Transit Depot in Lagos, a young man was reportedly injured after stepping on a landmine at the scene. ICBL, *Landmine Monitor Report 2002: Toward a Mine-Free World* 386 (2002), available at <http://archives.the-monitor.org/index.php/publications/display?url=LM/2002/nigeria.html>.

the victims typically require multiple operations and prolonged rehabilitative treatment.<sup>19</sup>

For instance, in Nigeria's Article 7 report, submitted in 2009, Nigeria stated that 147 survivors had been identified in a resettlement centre in the Anambra State and an additional 41 outside of this resettlement centre.<sup>20</sup>

This inherent danger of anti-personnel mines is compounded by the large number of them that have been deployed or stockpiled worldwide and by their dispersal in many different conflict areas, both present and past.<sup>21</sup>

It is clear that landmines seriously render unsafe otherwise safe public land areas for farming, hunting, recreation and other activities. This, in a sense, and to a certain and substantial measure, constitutes the environmentally degrading character of landmines. Sometimes even, a person or animal blown up in an encounter with landmines, dies and decays in the bush thereby producing purulent discharges and constituting odious environmental pollution and degradation.<sup>22</sup>

A key international NGO coalition, the International Campaign to Ban Landmines (ICBL), has estimated that over 110 million anti-personnel landmines have been deployed and scattered in over 83 countries. Some of the worst affected countries are Angola, Mozambique, Vietnam, Cambodia, Laos and the Federal Republic of Yugoslavia. Again, it is estimated that over 250 million landmines have been stockpiled in at least 108 countries.<sup>23</sup>

The United Nations reported that since 1975, more than one million people have died around the world and estimated that landmines are killing

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19. See ICRC, *supra* note 16.

20. ANTI-PERSONNEL MINE BAN CONVENTION ARTICLE 7 REPORT FORM J (2006 - 2009).

21. For example, 10 countries with the worst landmines are: Somalia-1M, Mozambique and Bosnia-3M each, Kuwait-5M, Cambodia-8 to 10M, Iraq-10M, Afghanistan-10M, Angola-10 to 20M, Iran-16M and Egypt-23M. Rusfan, *10 Countries With the Most Landmines*, LISTVERSE (Aug. 11, 2008), <http://listverse.com/2008/08/11/10-countries-with-the-most-landmines/>.

22. Abdhesh Gangwar, *Impact of War and Landmines on Environment*, CENTRE FOR ENVIRONMENT EDUCATION 1-11 (2003), available at <http://www.mtnforum.org/sites/default/files/publication/files/1409.pdf>.

23. See ICBL, *Landmine Monitor Report 1999: Toward a Mine-Free World* 10 (1999), available at <http://archives.the-monitor.org/index.php/publications/display?url=LM/1999/report.html>; see also *Landmine & Cluster Munitions Monitor Fact Sheet*, LANDMINE AND CLUSTER MUNITION MONITOR (June 2011), <http://archives.the-monitor.org/index.php/LM/Our-Research-Products/Factsheets>.

800 people a month.<sup>24</sup> In Angola, the number of amputee victims of landmines is put conservatively at 80,000. Indeed, it has been said – somewhat mockingly – that if you want to make money in Angola, all you do is sell artificial limbs! Landmines are not just the silent killers of thousands of innocent people every year; their devastation affects are more than the victims themselves and quite often snowballs into multiple social and economic tragedies. The loss of parents, for example, leaves in its train multitudes of orphans to care for. Moreover, persons maimed become instant burdens for the family and the larger society. If the victim is the economic or financial mainstay of their family, the whole family will be affected economically. In some countries, the immediate and long-term costs of medical care stretches health and other social services to a breaking point. In Iraq, for example, the cost of caring for victims of landmines was once estimated to be more than 50% of the country's medical resources and in Mozambique it is said to be up to 25%.<sup>25</sup>

Landmines also render vast areas of arable and other usable land useless. It is estimated that over one million acres of land on the Zambia-Zimbabwe border are unusable because of landmines and in Angola, mined agricultural land is reported to prevent local communities from cultivating the land. It is thus evident that in heavily-mined countries, agriculture is severely affected and this necessarily leads to malnutrition, famine and general poverty. Indeed, it is not only agriculture that suffers, but also transportation, communication and even emergency aid land routes. Ultimately, these factors become major causes of destabilization.<sup>26</sup>

### III. GENERAL GLOBAL REVULSION AGAINST LANDMINES

#### A. THE LANDMINE BAN CAMPAIGN

The history of the international campaign to ban landmines is another example of how a world problem of immense proportion can evoke a common spirit of determination and sacrifice to resolve it. Beginning in 1990, the ICRC and some non-governmental organizations (NGOs) began to document a dramatically high number of civilian mine casualties. Many of the victims were wounded during periods when no fighting was taking place or after the end of hostilities. These ICRC and individual NGO activities were the beginning of efforts to raise awareness about the

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24. U.N. Secretary-General, *Assistance in Mine Clearance: Rep. of the Secretary-General*, 7, U.N. Doc A/49/357 (Sept. 6, 1994).

25. *Id.*

26. *Id.*

devastating effects of landmines and press for an end to their use. During 1991, several of the NGOs and individuals simultaneously began to discuss the necessity of coordinating the existing initiatives and calling for a ban of landmines. In October 1992, six NGOs<sup>27</sup> under the coordination of United States Ambassador Jody Williams, came together and formally inaugurated the International Campaign to Ban Landmines (ICBL).

Operationally, the ICBL is an umbrella organization for a flexible network of national and individual NGOs scattered all over the world and sharing common objectives. The primary objective of the ICBL, as conceived during its inception, was (and still remains) to mount worldwide campaigns, in cooperation with the ICRC and other humanitarian organisations, for an international ban on the use, production, stockpiling and transfer of anti-personnel landmines and for increased international resources for humanitarian mine clearance and mine victim assistance programmes. Over the following three to four years, the membership of the ICBL network grew by leaps and bounds and today, the network represents over 1,400 NGOs of all types in over 90 countries who work locally, nationally, regionally and internationally to ban landmines. In 1997, the ICBL and its coordinator, Ambassador Jody Williams, received the Nobel Peace Prize for their exemplary commitment to the struggle for a global ban on landmines which, as will be discussed, culminated that year in an international convention banning landmines.<sup>28</sup>

The campaign, mounted and sustained by the ICBL, the ICRC and other humanitarian organizations, led to international conferences in 1995 and 1996 to review the then only existing treaty relevant to landmines, namely, the 1980 U.N. Convention on Certain Conventional Weapons (CCW).<sup>29</sup> But, the result of the review was too complex and weak and many governments felt it was not implementable or effective. Consequently, at the closing session of the last Review Conference in Geneva, the Canadian government announced its intention to sponsor an international conference to develop strategies aimed at effectively ending the

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27. These six original NGOs are: Handicap International, Human Rights Watch, Medico International, Mines Advisory Group, Physician for Human Rights and Vietnam Veterans of America Foundation.

28. *Jody Williams*, ENCYCLOPEDIA.COM (2005), <http://www.encyclopedia.com/doc/1G2-3446400206.html>.

29. United Nations 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, Apr. 10, 1981, 1342 U.N.T.S. 137 [hereinafter Convention on Certain Conventional Weapons].



affliction caused by landmines. The scene was thus set for the beginning of what has come to be known as the "Ottawa Process."<sup>30</sup>

#### IV. THE ANTI-PERSONNEL LANDMINE CONVENTION, 1997

##### A. THE MAKING OF THE CONVENTION

The Canadian-sponsored strategy conference took place in Ottawa in October 1996, with the active support of 50 governments, the ICRC, the ICBL and the United Nations. On October 5, 1996, the conference adopted the Ottawa Declaration, which committed the participants to carry out a plan of action intended to increase resources for mine clearance and victim assistance and to ensure that a ban treaty was concluded at the earliest possible date. For the next eleven months, several pro-ban activities took place at various fora, including, in the following sequence: the passing of U.N. Resolution 51/458 in December 1996 calling upon all countries to conclude a new treaty totally prohibiting anti-personnel mines "as soon as possible"; the Austrian government's preparation and circulation of a draft text of the ban between December 1996 and February 1997; an international discussion of the draft text in Vienna in February 1997 and in Germany in April 1997; and an international conference for a Global Ban on Anti-Personnel Mines in Brussels between June 24 – 27, 1997. The Brussels Conference adopted a declaration calling for, among other things, the convening of a diplomatic conference in Oslo, Norway to negotiate a total ban treaty on the basis of the draft prepared by the Austrian government. Then, from September 1, 1997, representatives of over 100 countries gathered in Oslo, Norway, to negotiate the final text of the Draft Convention. Finally, on September 18, 1997, the Draft Convention, whose long title is the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and Their Destruction (known in short as the Anti-Personnel Mine Ban Convention, APL Convention or Mine Ban Treaty), was agreed upon and adopted by the representatives.

The Convention, as the name implies, applies only to 'anti-personnel mines' which are defined in Article 2(1) to mean mines 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 (in short, anti-vehicle mines) are excluded.

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30. Anti-Personnel Mine Ban Convention, *supra* note 7, at 1.

B. PRINCIPAL OBLIGATIONS CREATED BY THE CONVENTION<sup>31</sup>

The APL Convention contains a total of twenty-two (22) articles, but the principal obligations created by it can be said to be those embodied in Articles 1, 4, 5, 6 and 9. Under Article 1, each State Party never undertakes, under any circumstances:

- (a) to use anti-personnel mines;
- (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 States Party under the Convention.

Article 1, as amplified by Articles 4 and 5, also provides that each State Party undertakes to destroy or ensure the destruction of:

- (a) all stockpiled anti-personnel mines it owns or possesses or that are under its jurisdiction or control, as soon as possible but not later than four years after the entry into force of the Convention for that State Party;<sup>32</sup> and
- (b) all anti-personnel mines in mined areas under its jurisdiction or control, as soon as possible but not later than ten years after the entry into force of the Convention for that State Party.<sup>33</sup> To this end, each state party is required to make every effort to identify all areas under its jurisdiction or control in which anti-personnel mines are known or suspected to be emplaced and to ensure as soon as possible that all anti-personnel mines in mined areas under its jurisdiction or control are perimeter-marked, monitored and protected by fencing or other means, to ensure the effective exclusion of civilians.<sup>34</sup>

There are also provisions in Article 6 imposing obligations for international cooperation and assistance in respect of certain activities. Article

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31. For a more detailed discussion of the provisions, see ICRC, *supra* note 16, at 5-10. *See also What Is a Landmine?*, ICBL, <http://www.icbl.org/en-gb/problem/what-is-a-landmine.aspx> (last visited Oct. 28, 2011).

32. *See* Anti-Personnel Mine Ban Convention, *supra* note 7, art. 1(2), 4.

33. *See id.* art. 5(2).

34. *Id.*

6(6), for example, requires each State Party to provide information to the database on mine clearance established within the United Nation's system, especially, information concerning various means and technologies of mine clearance.

Under Article 9, each State Party shall take all appropriate legal, administrative and other measures, including the imposition of penal sanctions, to prevent and suppress any activity prohibited to a State Party under the Convention undertaken by persons or on territory under its jurisdiction or control.

The Convention has an unlimited duration,<sup>35</sup> but each State Party, in the exercise of its national sovereignty, has the right to withdraw from it;<sup>36</sup> such withdrawal, however, shall only take effect six months after the receipt of the instrument of withdrawal by the Depositary.<sup>37</sup> But, a withdrawal by a States Party shall not affect its duty as a State to continue fulfilling the obligations assumed under any relevant rules of international law.<sup>38</sup> This is an affirmation of the existing law of treaties as provided in Article 70 of the 1969 Vienna Convention on the Law of Treaties.

### C. SIGNATURE, ETC., AND ENTRY INTO FORCE

Under Article 15, the APL Convention, although made in Oslo, Norway on September 18, 1997, only became open for signature in Ottawa, Canada, by all the States from December 3, 1997 until December 4, 1997. Thereafter, it became open for signature at the United Nations Headquarters in New York from December 5, 1997 until its entry into force. Article 16(1) provides that the Convention is subject to ratification, acceptance or approval by the signatories. These, as specified in Article 2(1)(b) of the 1969 Vienna Convention on the Law of Treaties, are processes whereby a State, after signature, establishes on the international plane its consent to be bound by a treaty, since such consent is the very basis of treaty obligations.<sup>39</sup> Signature alone may not ensure such consent,<sup>40</sup> for there may be a national constitutional requirement to be

35. *Id.* art. 20(1).

36. *Id.* art. 20(2).

37. *Id.* art. 20(3).

38. *Id.* art. 20(4).

39. *See, e.g.,* SHAW, *supra* note 1, at 637-41.

40. But, signature may equate to consent in certain circumstances, as noted in Article 12 of the Vienna Convention on the Law of Treaties, such as where the treaty itself specifically provides that signature shall have that effect. Vienna Convention on the Law of Treaties, art. 12, *opened for signature* May 23, 1969, 1155 U.N.T.S. 331.

fulfilled. Besides this, it is also necessary to ensure that the representative who executed the signature did not exceed his power or instructions with regard to the making of a particular treaty. It is also provided in Article 16(2) of the Convention that the Convention shall be open for accession by any State that has not signed it. Accession, provided it is expressly allowed in the treaty,<sup>41</sup> as it is in Article 16(2), is the normal process by which a State becomes a party to a treaty it has not signed.

Article 17(1) of the Convention provides for its mode of entry into force. It provides that the Convention “shall enter into force on the first day of the sixth month after the month in which the 40th instrument of ratification, acceptance, approval or accession has been deposited.” This provision translates to five clear months after the month in which the 40th instrument has been deposited. For any State which deposits its instrument of ratification, acceptance, approval or accession after the date of the deposit of the 40th instrument, it is provided that the Convention shall enter into force on the first day of the sixth month after the date on which that State has deposited its instrument, that is to say, five clear months after the date of that deposit.<sup>42</sup>

The response of States to the above provisions of the Convention for signature, ratification, etc., has been somewhat phenomenal, reflecting the global enthusiasm with which the conclusion of the Convention was greeted. By September 1998 – barely ten months after the Convention was opened for signature – 40 countries had not only signed it, but also deposited their instruments of ratification, acceptance, approval or accession, in accordance with Article 17(1), bringing the Convention into force as international law on March 1, 1999. By this record, the APL Convention became the fastest ever multilateral arms-related treaty to come into force. As of today, a total of 158 countries have signed and ratified the Convention, including Nigeria.<sup>43</sup> About 39 countries have not signed, including the United States, China, Israel, Russia, Saudi Arabia and the United Arab Emirates.<sup>44</sup> Despite this widespread uptake, major military powers, such as the U.S., Russia, China, India and Pakistan, remain outside. These governments argue that anti-personnel mines are necessary, remain militarily effective and discriminate in their effects if the right precautions regarding their placement, marking and removal are taken. This lack of universal inclusion might be taken as representing a

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41. *See id.* art. 15.

42. Anti-Personnel Mine Ban Convention, *supra* note 7, art. 17(2).

43. For full list of signatories and non-signatories to the Convention, see *Treaty Status*, ICBL, <http://www.icbl.org/en-gb/the-treaty/treaty-status.aspx>.

44. *Id.*

major deficiency of the Anti-Personnel Mine Ban Convention.<sup>45</sup> But, for those countries, which have not yet signed – although they may still sign – since the Convention has already become international law, their signature is no longer necessary for that purpose. They now only need to accede in order to be bound as States Parties.

However, for many countries it is one thing to become internationally bound by a treaty and quite a different matter to enforce its provisions as law within the domestic jurisdiction. This is because international law leaves it to States to adopt such legislative and other measures, consistent with their own constitutional arrangement, as to give effect to the obligations which they may undertake to implement and, more importantly, to ensure that any person whose rights are violated has an effective remedy justiciable before the municipal courts. This position, as will be discussed in Section 4 below, has a direct relevance to Nigeria, and is, in fact, expressly reflected in Article 9 of the Convention, which stipulates national implementation measures required of each State Party to the Convention.<sup>46</sup>

Article 7, in addition, specifies various “Transparency Measures” in the way of periodic reports to the Secretary-General of the United Nations that a State is implementing the Convention. Such Article 7 reports are required to be given “as soon as practicable, and in any event not later than 180 days after the entry into force of [the] Convention for that States Party.” Article 7(2) further requires the information provided in the initial Report to be “updated annually.”

#### V. THE APL CONVENTION: CARTAGENA ACTION PLAN 2010 – 2014

International law reflects, first and foremost, the basic state-oriented character of world politics. Units of formal independence, benefiting from equal sovereignty in law and equal possession of the basic attributes of statehood,<sup>47</sup> have succeeded in creating a system enshrining such values. Notable examples include non-intervention in internal affairs, territorial integrity, non-use of force and equality of voting in the United Nations General Assembly. In addition to this, many factors cut across state borders and create tension in world politics, such as inadequate eco-

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45. RICHARD MOYES, A CONVENTION BEYOND THE CONVENTION: STIGMA, HUMANITARIAN STANDARDS AND THE OSLO PROCESS 8-9 (Landmine Action 2008).

46. To the same effect, see also the International Covenant on Civil and Political Rights, art. 2(2), Dec. 16, 1966, 6 I.L.M. 368 (1967), 999 U.N.T.S. 171.

47. SHAW, *supra* note 1, at 37.

conomic relationships, international concern for human rights and the rise in new technological forces.<sup>48</sup> The principal areas of action proposed to implement the APL Convention were adopted at the Second Review Conference of the Mine Ban Treaty, held from November 29 – December 4, 2009 in Cartagena, Columbia. These areas are as follows:

#### A. UNIVERSALIZING THE CONVENTION

States Parties have resolved to achieve universal adherence to the convention and its norms in order to realize the goal of a world free of anti-personnel mines. For instance, all States Parties will seize every opportunity to promote ratification of and accession to the convention particularly in regions with low adherence.<sup>49</sup>

#### B. DESTROYING STOCKPILED ANTI-PERSONNEL MINES

States Parties have resolved to ensure the expeditious and timely destruction of all stockpiled anti-personnel mines,<sup>50</sup> limit the number of anti-personnel mines retained to the absolute minimum necessary,<sup>51</sup> prevent further cases of non-compliance, and report.<sup>52</sup> States Parties that have missed their deadlines for completion of obligations under Article 4, and thus remain non-compliant with the Convention, will comply, without delay,<sup>53</sup> by destroying all stockpiles of anti-personnel mines.<sup>54</sup>

#### C. CLEARING MINED AREAS

States Parties are resolved to ensure the expeditious identification of all mined areas under their jurisdiction or control and to ensure the clear-

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48. For examples of this in the context of the law relating to territory, see MALCOLM N. SHAW, *TITLE TO TERRITORY IN AFRICA: INTERNATIONAL LEGAL ISSUES 1-11* (Clarendon Press 1986).

49. Cartagena Action Plan 2010 – 2014: Ending the Suffering Caused by Anti-Personnel Mines, Action #1, *adopted* at the Second Review Conference of the States Parties to the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction Nov. 30, 2009 – Dec. 4, 2009, *available at* <http://www.icrc.org/eng/assets/files/other/cartagena-action-plan-2010-2014.pdf> (committing States Parties to undertake specific actions to help further implementation and promotion of the Anti-Personnel Mine Ban Convention) [hereinafter Cartagena Action Plan].

50. Anti-Personnel Mine Ban Convention, *supra* note 7, art. 4.

51. *Id.* art. 3.

52. *Id.* art. 7. States Parties must report as required by Article 7 of the Anti-Personnel Mine Ban Convention and in line with recommendations made at the Ninth Meeting of the States Parties. For more details on the Ninth Meeting, see *9th Meeting of States Parties to the Mine Ban Treaty*, ICBL, <http://www.icbl.org/en-gb/the-treaty/treaty-meetings/meetings-of-states-parties/9th-meeting-of-states-parties-to-the-mine-ban-treaty.aspx>.

53. Anti-Personnel Mine Ban Convention, *supra* note 7, art. 4.

54. Cartagena Action Plan, *supra* note 49, Action #7.

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ance and release of these areas as soon as possible, even if an extension has been granted. The speed and manner of mine clearance will have crucial implications for development and human security – the safety and well-being of affected individuals and their communities. The States Parties that have been granted an extension to their initial deadline<sup>55</sup> will complete implementation of Article 5 no later than their extended deadlines.<sup>56</sup>

States Parties that have reported mined areas under their jurisdiction or control will do their utmost to identify the precise perimeters and locations in which anti-personnel mines are known or are suspected to be placed<sup>57</sup> and report the same.<sup>58</sup> Those who need to request an extension to their 10-year deadline due to reported exceptional circumstances will inform the States Parties of these exceptional circumstances in due time and develop and analyze the extension request.<sup>59</sup>

All States Parties, when previously unknown mined areas are discovered after reporting compliance with Article 5(1),<sup>60</sup> will report such discoveries in accordance with their obligations,<sup>61</sup> take advantage of other informal means to share such information and destroy the anti-personnel mines in these areas as a matter of urgent priority.<sup>62</sup>

## D. ASSISTING THE VICTIMS

States Parties are resolved to provide adequate age and gender sensitive<sup>63</sup> assistance to mine victims through a holistic and integrated approach that includes emergency and continuing medical care, physical rehabilitation, psychological support, and social and economic inclusion in accordance with applicable international humanitarian and human rights law,<sup>64</sup> with the aim of ensuring their full and effective participation<sup>65</sup> and inclusion in the social, cultural, economic and political life of their communities.<sup>66</sup>

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55. Anti-Personnel Mine Ban Convention, *supra* note 7, art. 5.

56. Cartagena Action Plan, *supra* note 49, Action #13.

57. *Id.* Action #14.

58. Anti-Personnel Mine Ban Convention, *supra* note 7, art. 7.

59. Cartagena Action Plan, *supra* note 49, Action #21. Also see recommendations made at the Seventh Meeting of the States Parties. For more details on the Seventh Meeting, see *Treaty Meetings*, ICBL, <http://www.icbl.org/en-gb/the-treaty/treaty-meetings/meetings-of-states-parties.aspx>.

60. Anti-Personnel Mine Ban Convention, *supra* note 7.

61. *Id.* art. 7.

62. Cartagena Action Plan, *supra* note 49, Action #22.

63. *See id.* Action #25.

64. *See id.* Action #23.

65. *See id.* Action #26.

66. *See id.* Action #31.

Victim assistance should be integrated into broader national policies, plans and legal frameworks<sup>67</sup> related to disability, health, education, employment, development and poverty reduction,<sup>68</sup> while placing particular emphasis on ensuring that mine victims have access to specialized services when needed and can access services available to the wider population on an equal basis.<sup>69</sup>

States Parties are resolved not to discriminate against or among mine victims or between mine survivors and other persons with disabilities and to ensure that differences in treatment should only be based on medical, rehabilitative, psychological or socio-economic needs of the victims.<sup>70</sup> Victim assistance shall be made available, affordable, accessible and sustainable.<sup>71</sup> The principles of equality and non-discrimination, full inclusion and participation, openness, accountability and transparency shall guide victim assistance efforts.<sup>72</sup> For instance, Diana, the Princess of Wales had been very active in the fight against landmines, and thus she assisted landmine victims.<sup>73</sup> In like manner, victims of landmines in Nigeria are to be rehabilitated through acquisition of skills. This is in line with the U.N. Cartagena Plan of Action of 2009 on victim assistance in Nigeria.<sup>74</sup>

#### E. INTERNATIONAL COOPERATION AND ASSISTANCE FOR ACHIEVING THE CONVENTIONS' AIMS

The fulfilment of a States Party's obligation will require sustained substantial political, financial and material commitments,<sup>75</sup> provided both through national commitments<sup>76</sup> and international, regional and bilateral cooperation and assistance<sup>77</sup> in accordance with the obligations under Article 6 and technical assistance.<sup>78</sup>

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67. *Id.* Action #26.

68. *Id.* Action #29.

69. *Id.* Action #32, #33.

70. *Id.* Action #33.

71. *Id.* Action #25.

72. *Id.* Action #28.

73. Anti-Personnel Mine Ban Convention, *supra* note 7, at 3.

74. Federal Radio Corporation of Nigeria, Land Mine Victims to be Rehabilitated, *Radio Nigeria Online* (Sept. 9, 2011), <http://ww2.radionigeria.gov.ng/frnews-detail.php?ID=3339>.

75. *See* Cartagena Action Plan, *supra* note 49, Action #39.

76. *Id.* Action #34.

77. *See id.* Action #35, #41.

78. *See id.* Action #36, #39, #47.



F. ADDITIONAL ACTIONS ESSENTIAL TO ACHIEVING THE CONVENTIONS' AIMS

1. *Compliance*: To ensure compliance, all States Parties will, in case of alleged or known non-compliance with the Convention, work together with the state parties concerned to resolve the matter expeditiously<sup>79</sup> and as prescribed.<sup>80</sup>

2. *Reporting and Transparency*: States Parties that have not submitted their initial Article 7 report will immediately fulfil their obligation to initially submit and annually update the Article 7 transparency report.<sup>81</sup> State Parties that have retained anti-personnel mines under Article 3 of the Convention, will regularly review the number of anti-personnel mines to ensure that it constitutes the minimum absolutely necessary for the purposes permitted by the Convention, destroy all those in excess and where appropriate, explore available alternatives to using live anti-personnel mines for training and research activities.<sup>82</sup>

Also, States Parties will encourage other state parties that have maintained, under the provisions of Article 3, the same number of anti-personnel mines for years without reporting on the use of such mines, either for permitted purposes or other concrete plans, to report on such use and such plans.<sup>83</sup> States Parties will further encourage other state parties to review whether these mines are needed and constitute the minimum number absolutely necessary for permitted purposes and to destroy those that are in excess of this number.<sup>84</sup>

3. *Accountability*: States Parties that have not developed national implementation measures will, as a matter of urgency, develop and adopt legislative, administrative and other measures in accordance with Article 9, thereby contributing to full compliance with the Convention.<sup>85</sup> There will be information sharing on legislative implementation and its application through reports.<sup>86</sup> All States Parties will recognize that when armed non-state actors operate under a States Party's jurisdiction or control, such

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79. *See id.* Action #53.

80. Anti-Personnel Mine Ban Convention, *supra* note 7, art. 8(1).

81. Cartagena Action Plan, *supra* note 49, Action #54.

82. *Id.* Action #56.

83. *Id.*

84. *Id.* Action #58.

85. *Id.* Action #59.

86. Reports made in accordance with Article 7 of the Anti-Personnel Mine Ban Convention and the Intercessional Work Programme. *See also* Cartagena Action Plan, *supra* note 49, Action #60.

non-state actors will be held responsible for acts prohibited to States Parties under the Convention, in accordance with national measures taken under Article 9.<sup>87</sup>

4. *Implementation Partnerships and Support*: All States Parties will recognize and further encourage the full participation in and contribute to the implementation of the Convention by the International Campaign to Ban Landmines, the International Committee of the Red Cross, National Red Cross and Red Crescent Societies and their International Federation, the United Nations, the Geneva International Centre for Humanitarian Demining, International and Regional Organizations, Mine Survivors and their Organizations and other Civil Society Organizations.<sup>88</sup> It shall also make use of synergies with other relevant instruments of international humanitarian and human rights law.<sup>89</sup> Finally, States Parties in a position to do so will provide necessary financial resources for the effective operation of the Implementation Support Unit<sup>90</sup> and contribute to the sponsorship programme, thereby permitting widespread representation at meetings of the Convention, particularly by mine affected developing States Parties.<sup>91</sup>

## VI. APL CONVENTION: THE POSITION OF NIGERIA

Nigeria acceded to the 1997 APL Convention on September 27, 2001 and ratified it six months later on March 1, 2002,<sup>92</sup> thereby making the Convention binding on Nigeria as a State Party at the international level. But, the process of bringing the provisions of the Convention into force within Nigeria by enacting a national legislation to domesticate the provisions, in accordance with Section 12 of the 1999 Constitution, seems still to be dragging on. The Convention was made at a time when Nigeria was under military rule and in the grips of her most autocratic ruler, General Sani Abacha. Sources at the Foreign Affairs Ministry at the time explained Nigeria's apparent sluggishness in the matter on the basis that until the death of the extreme military ruler in June 1998 and the final exit of military government in Nigeria in May 1999, there was a political

87. Cartagena Action Plan, *supra* note 49, Action #61.

88. *Id.* Action #62.

89. *Id.* Action #65.

90. *Id.* Action #66.

91. *Id.* Action #67.

92. See *Landmine Monitoring Report 2009: Nigeria*, LANDMINE AND CLUSTER MUNITION MONITOR, available at [http://archives.the-monitor.org/index.php/publications/display?act=submit&pqs\\_year=2009&pqs\\_type=LM&pqs\\_report=nigeria&pqs\\_section=](http://archives.the-monitor.org/index.php/publications/display?act=submit&pqs_year=2009&pqs_type=LM&pqs_report=nigeria&pqs_section=); *Cluster Munition Monitor Report 2012: Nigeria*, LANDMINE AND CLUSTER MUNITION MONITOR, available at [http://archives.the-monitor.org/index.php/cp/display/region\\_profiles/profile/545](http://archives.the-monitor.org/index.php/cp/display/region_profiles/profile/545).

problem between Nigeria and Canada, which “spearheaded the APL Convention.” The same Foreign Affairs Ministry sources also revealed that officials of the Ministry regarded Ambassador Jody Williams as “a Canadian” and so treated her active involvement in the ICBL Ban Campaign as another Canadian affair. If this was the true official reason for Nigeria’s standoffishness in this important campaign, it would be a strange and ludicrous posture.

For one thing, the global landmine ban with which the APL Convention is concerned is not of any particular national interest to Canada and it, therefore, makes little sense to attach an anti-Canadian sentiment to the Convention. Secondly, the landmine ban campaign itself is an ultra-humanitarian cause which ought to transcend churlish nationalism. Thirdly, it borders on crass and dangerous ignorance on the part of Foreign Affairs officials in the '90s to regard Ambassador Jody Williams as a Canadian (which she is not) and to direct government foreign policy on that premise. Moreover, even if Ambassador Jody William was truly a Canadian, it would clearly be wrong to ascribe to the State of Canada the roles she played in the landmine ban campaign in her private capacity as the coordinator of the ICBL worldwide NGO-coalition.

It was further revealed by Foreign Affairs Ministry sources at the time that the Abacha Government, in the five years of its gruesome existence from 1993 – 1998, never in fact signed or acceded to even one treaty or convention. Also, on May 19, 1999, General Abacha’s successor, General Abdulsalami Abubakar, was presented a memorandum by the Minister of Foreign Affairs advising that the APL Convention be signed and acceded to before his pledged departure on May 29, 1999, but that “the memo ended in the Council without much done on it.” Based on this, it seems that there was a general disinclination on the part of Nigeria’s military dictators to sign treaties during their time, reflecting their well-deserved alienation from the international community.

One would have expected that with the new season of democratic sunshine and international welcome in which Nigeria has been basking since the end of military rule in 1999, the Federal Government would be very quick to restore the dignity of Nigeria, with regards to the APL Convention, by joining other African countries and the world in signing and ratifying the Convention. Happily, as earlier stated,<sup>93</sup> a few months after the death of Abacha in June 1998, Foreign Affairs sources indicated that efforts were being started to make sure that the Convention was signed

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93. *Id.*

and ratified. One such effort was that NGOs started putting pressure on Ambassador Jody Williams to visit Nigeria. Williams then attended a Workshop on Landmine Ban Campaign in Abuja organized by the Centre for Conflict Resolution and Peace Advocacy (C.C.R.P.A.) and had an audience with the Minister and officials of the Foreign Affairs Ministry. This action by Ambassador Jody Williams opened the way for Nigeria's accession to the Convention.

But, as indicated in Section 3 above, Nigeria's accession to the Convention can only make it a State Party to the Convention and bind the country at the international domain to the international obligations created by the Convention. Such international obligations cannot, however, be implemented within Nigeria unless and until they are incorporated as part of Nigeria's domestic law. Nor indeed can Nigeria, without such incorporation, implement within its own borders those stipulations of the Convention that require implementation within a State Party, such as (were they to be relevant to Nigeria) the destruction of stockpiled mines and landmines in mined areas, victim assistance and national implementation measures stipulated in Article 9. The position is anchored on the provision in Section 12(1) of the 1999 Constitution, re-enacting the same Section in the 1979 Constitution. The Section provides that "No treaty between the Federation and any other country shall have the force of law except to the extent to which any such treaty has been enacted into law by the National Assembly."

The power given to the National Assembly under this provision extends to the enactment of laws for the implementation of treaties relating to both matters in the Exclusive Legislative List<sup>94</sup> and matters not included in that List.<sup>95</sup> The constitutional position, as Nwabueze explains,<sup>96</sup> reflects the inherited common law conception that a treaty is a purely executive act and if its stipulations require implementation within the country, then this can only be done by legislation enacted by the legislature.<sup>97</sup> The principle, as enacted in the 1979 Constitution, was applied in connection with the African Charter on Human and Peoples' Rights,<sup>98</sup> which was incorporated as part of Nigerian domestic law in the federal

94. CONSTITUTION OF THE FEDERAL REPUBLIC OF NIGERIA (1999), § 12(1), Exclusive Legislative List Item 31.

95. *Id.* § 12(2).

96. B.O. NWABUEZE, *FEDERALISM IN NIGERIA UNDER THE PRESIDENTIAL CONSTITUTION* 255 (Sweet & Maxwell 1983).

97. The common law position is stated in *Att'y-Gen. Can. v. Att'y-Gen. Ont.*, [1937] A.C. 326, 347.

98. African Charter on Human and Peoples' Rights, *adopted* June 27, 1981, 21 I.L.M. 58 (adopted by the General Assembly of Heads of State and Government of the African Union in

statute, African Charter on Human and Peoples' Rights (Ratification and Enforcement) Act 1984.<sup>99</sup> As a result, the Nigerian courts enforced the principle in the case of *Constitutional Rights Project v. Nigeria* (1998).<sup>100</sup>

As earlier stated, Nigeria finally acceded to the APL Convention on September 27, 2001 and ratified it six months later, thereby becoming a State Party on March 1, 2002. What remains now is the domestication of the Convention in accordance with the above-stated Section 12(1) of the 1999 Constitution.

Until the domestication process is completed (which Nigeria has been claiming in successive Landmine Monitor Reports to have been in progress),<sup>101</sup> only the rules of general international humanitarian law relevant to anti-personnel mines can bind the country in appropriate circumstances. Two of such rules are:

- (i) Parties to a conflict must always distinguish between civilians and combatants and civilians must not be attacked. In accordance with this principle, any weapon that is inherently indiscriminate must never be used.
- (ii) It is prohibited to use weapons which are "of a nature to cause superfluous injury or unnecessary suffering." This will seem to mean that any weapon designed to cause more injury than required to take a soldier "out of action" (e.g., one intended to inflict gratuitous suffering), even when directed solely against combatants, is unlawful and must not be used.

It is also possible that Nigeria may be bound by the more detailed provisions specific to anti-personnel mines which are contained in the only international treaty existing prior to the APL Convention, namely, the 1980 U.N. Convention on Certain Conventional Weapons (CCW),<sup>102</sup>

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Nairobi, Kenya on June 27, 1981 and entered into force in accordance with Article 63(3) on its 5th anniversary on Oct. 21, 1986).

99. African Charter on Human and Peoples' Rights (Ratification and Enforcement) Act (1990) Cap. (10), Laws of the Federation of Nigeria 1990. Nigeria also domesticated the African Charter on Human and Peoples' Rights as Cap. (A9) Laws of the Federation of Nigeria 2004.

100. *Constitutional Rights Project v. Nigeria*, Comm. No. 102/93 (Oct. 31, 1998), available at [http://www.achpr.org/files/sessions/24th/communications/102.93/achpr24\\_102\\_93\\_eng.pdf](http://www.achpr.org/files/sessions/24th/communications/102.93/achpr24_102_93_eng.pdf) (finding the communication admissible, the court applied the principles of the African Charter and held there was a violation).

101. See, e.g., *supra* note 92.

102. Convention on Certain Conventional Weapons, *supra* note 29.

provided that Nigeria has signed, ratified and internalized it. As for the APL Convention itself, certain implementation actions already taken by Nigeria will be pointed out below.

#### VII. APL CONVENTION: PRESENT IMPLEMENTATION STATUS

Apart from the usual diplomatic consultations and exchanges between the States Parties, the Convention has established three formal fora for their periodic interactions and problem solving strategies. These are: *Meeting of the States Parties*, *Special Meeting of the States Parties* and *Review Conference of all the States Parties*.

The first of the three is *Meetings of the States Parties*, established by Article 11(1) of the Convention. The purpose of these meetings is to consider, *inter alia*, any matter concerning or affecting the implementation of the Convention. Under Article 11(2), the first meeting of the States Parties shall be convened by the Secretary-General of the United Nations within one year after the entry into force of the Convention. Subsequently, such meetings shall be convened by the Secretary-General annually until the first Review Conference discussed below. The Convention, as earlier pointed out, entered into force on March 1, 1999 and within only six months of this happening, as noted below, the first meeting of States Parties took place, indicating a general commitment to the implementation of the Convention by the States Parties.

The second forum of interaction is the *Special Meeting of the States Parties* established by Article 11(3) of the Convention. The circumstances under which such a meeting may be held are set out in Article 8. Basically, the meeting is convened *ad hoc* by the Secretary-General of the United Nations at the request of a State Party, supported by at least one-third of the States Parties, to consider any special issue or issues of implementation encountered and raised by the requesting State Party.

The third forum of interaction is the *Review Conference of all States Parties* established under Article 12(1). This conference is required to be convened by the Secretary-General of the United Nations five years after the entry into force of the Convention. The purpose of the Review Conference, as the name implies, is to review the operation and status of implementation of the Convention. Under the 5-year provision, the first Review Conference was due in 2003.

There is evidence that the enthusiasm which greeted the initial signing and ratification of the Convention by States has generally been manifesting in its implementation. The ICBL group and other NGOs, having achieved their primary objective of securing a global landmine ban treaty, still remain committed to working and pushing for more signatories to the APL Convention, especially on the part of powerful and concerned non-signatories like the United States, Russia and China.<sup>103</sup> These NGOs are now directing great energies to global implementation campaign and monitoring. To this end, the ICBL group has constituted a Landmine Monitor Core Group to handle the implementation monitor programme. The idea of a Landmine Monitor, as explained by ICBL, arose from a desire to hold governments accountable to both their commitments to the Convention and to the other statements they have made on anti-personnel landmines.

At the first meeting of the States Parties to the Convention, held in Maputo, Mozambique in 1999, the ICBL's Landmine Monitor Core Group released a 1,100-page international report entitled, "Landmine Monitor Report 1999 – Towards a Mine-Free World." The report, in general, painted a bright picture of the state of global implementation of the APL Convention within its short time of existence then and indicated that the world was moving rapidly in the right direction in terms of ridding the world of anti-personnel landmines. Approximately over 20 million landmines were said to have been destroyed from stockpiles found in more than 36 nations and there was a significant decrease in the number of landmine victims in key areas of the world. As of 2013, about 39 countries that produced landmines in the past have banned production. These countries include eight of the 12 biggest landmine producers and exporters of the weapon over the past 30 years who signed the Convention. Moreover, global trade in landmines has almost completely halted, with all but one of 34 nations that previously exported landmines pledging that they are no longer exporting.

As for Nigeria, apart from the sluggish progress in the domestication of the APL Convention, the country has not been known to have ever produced or exported anti-personnel mines. But Nigeria imported and used them during the Biafran Civil War, 1967 – 1970. As a result, anti-personnel mines and cluster munitions remained scattered and buried or even stockpiled in many war areas of Biafra in Southeastern Nigeria. In its initial Article 7 report in 2004, Nigeria declared a stockpile of 3,364 so-called 'Dimbat' mines and reported that it would retain the entire stock-

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103. See *supra* note 43.

pile for research and training.<sup>104</sup> In May 2002, however, Nigeria presented photographs to the Standing Committee on Stockpile Destruction showing that anti-personnel mines were among munitions involved in a January 2002 fire and explosion at the Ammunition Transit Depot in Ikeja Cantoment, Lagos.<sup>105</sup> Also in its Article 7 report to the Secretary-General of the United Nations in 2012, Nigeria reported the past possession of what it described as “Biafran-fabricated landmines called ‘*ogbunigwe*’ used by Biafra as anti-personnel landmines during the Nigerian civil war of 1967 – 1970.”<sup>106</sup> But earlier in June 2011, Nigeria reported that it had cleared all landmines and landmine stockpiles from all of its territory.<sup>107</sup>

However, in 2015, landmines were discovered in Nigeria when ground troops went in to clear a vast forest used as a stronghold by the militant group, Boko Haram, which forced soldiers to retreat upon discovering the area was heavily mined.<sup>108</sup> Thus, although the Nigerian government is complying as reported, the insurgents still utilize landmines in Nigeria.

Nonetheless, Nigeria did participate in the Oslo Process that created the 2008 U.N. Convention on Cluster Munitions to remove the hazards of cluster munition remnants in landmine areas. It was signed by Nigeria on June 12, 2009 and since then, the Nigerian government has continued to engage in the work of the Convention on Cluster Munitions.<sup>109</sup>

104. ANTI-PERSONNEL MINE BAN CONVENTION ARTICLE 7 REPORT FORM D (2004). The origins of the mines were not given, but Landmine Monitor has reported that Nigeria previously imported anti-personnel mines from the former Yugoslavia, the former Soviet Union, the former Czechoslovakia, France and the United Kingdom. For details, see *Landmine Monitor Report 1999*, *supra* note 23.

105. Bob Scott, Munitions Consultants, U.K., Presentation Before the Standing Committee on Stockpile Destruction (May 30, 2002), at 12, available at [http://www.gichd.ch/pdf/mbc/SC\\_may02/speeches\\_sd/Scott\\_Nigeria.pdf](http://www.gichd.ch/pdf/mbc/SC_may02/speeches_sd/Scott_Nigeria.pdf). For more details, see *Landmine Monitor Report 2004*, *supra* note 9, at 638-41 (confirming the presence of anti-personnel mines by U.S. experts to the Landmine Monitor).

106. See *Cluster Munition Monitor Report 2012: Nigeria*, LANDMINE AND CLUSTER MUNITION MONITOR, available at [http://archives.the-monitor.org/index.php/cp/display/region\\_profiles/profile/545](http://archives.the-monitor.org/index.php/cp/display/region_profiles/profile/545).

107. *Id.*

108. Aislinn Laign, *Nigerian Troops Encounter Landmines in Forest Stronghold of Boko Haram*, TELEGRAPH (Apr. 23, 2015), [http://www.telegraph.co.uk/news/worldnews/africaandindian\\_ocean/nigeria/11559571/Nigerian-troops-encounter-landmines-in-forest-stronghold-of-Boko-Haram.html](http://www.telegraph.co.uk/news/worldnews/africaandindian_ocean/nigeria/11559571/Nigerian-troops-encounter-landmines-in-forest-stronghold-of-Boko-Haram.html).

109. The Federal Republic of Nigeria signed the Convention on Cluster Munitions (CMC) on June 12, 2009. An inter-ministerial committee met for the first time in June 2012 to discuss preparations for Nigeria’s ratification of the ban convention. The committee includes a civil society representative from CMC member, IANSA Women’s Network-Nigeria. See Convention on Cluster Munitions Intersessional Meetings, Apr. 18, 2012, *Statement of Nigeria*, [http://www.clusterconvention.org/files/2012/04/Nigeria\\_StockpileDestruction.pdf](http://www.clusterconvention.org/files/2012/04/Nigeria_StockpileDestruction.pdf).



In the area of donor funding for humanitarian activities, such as the supply of basic needs to landmine victims, like emergency medical care, and other needs for the execution of national de-mining programmes, the ICBL report disclosed that within only one year of the APL Convention, approximately 640 million U.S. Dollars had been spent by 17 major donors. It is estimated that it costs about 1,000 U.S. Dollars to remove one landmine from the ground and with an estimated 110 million landmines currently in the ground worldwide,<sup>110</sup> it will cost about 110 billion U.S. Dollars to remove them.

But, the implementation report has not been a complete success story. As would be expected, there are some continuing and new problems of various proportions, but the overall situation and prospects are encouraging enough to make Stephen Goose, Director of Human Rights Watch, once claim for the ICBL that they were “in a very real sense, winning the war against the anti-personnel landmines.”<sup>111</sup>

#### VIII. CONCLUSION

This is a paper on international environmental law devoted to the subject of the landmine scourge and the global effort to eliminate it. The character of buried and unburied landmines, exploded and unexploded landmines and cluster munition remnants as veritable hazards to man and animals in usable land areas make them clear pollutants of the environment. In the prelude, the paper examines the meaning and nature of landmines, the security and social problems created by landmines in their various forms, and the character of the global campaign to ban landmines. This approach has enabled a useful insight into the APL Convention itself – its history, adoption and signing, as well as the principal obligations created by it. Building on the foregoing foundation, this article then zeroes in on the political posture of Nigeria towards the APL Convention and the domestic law and practice of Nigeria’s treaty obligations. The article ends with an appraisal of the implementation status of the Convention both globally and as it relates to the case study of Nigeria. Six points, previously discussed in the paper, should be highlighted.

First, the APL Convention is an ultra-humanitarian treaty dealing with a very serious human and environmental cause of present and future global concern to humanity.

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110. See *Treaty in Detail*, ICBL, <http://www.icbl.org/en-gb/the-treaty/treaty-in-detail/treaty-text.aspx> (last visited Apr. 11, 2016).

111. See *supra* note 23.

Second, the ICBL coalition of NGOs and its coordinator, Ambassador Jody Williams, and indeed all other national and international NGOs that have participated and continue to participate in the warlike and determined global campaign to ban and eliminate landmines and other related hazards, deserve our eternal gratitude for their sacrifice, commitment and victory. It is appropriate that the administrators of the Nobel Prize recognized this fact and decided to honour ICBL and its coordinator with a Nobel Peace Prize.

Third, the countries of the world have, in general, demonstrated commendable enthusiasm in their response and commitment to the adoption, signing, ratification and implementation of the APL Convention.

Fourth, Nigeria, despite its initial apathy towards the accession and implementation of the APL Convention, especially during the military administration of General Abacha, has now warmed up to a commendable stance in the implementation. It is important, however, that the process of domestication of the Convention, said to have been started years ago, be sped up to completion.

Fifth, with regard to the issue of accession to the APL Convention, the remaining non-signatories, especially the three defaulting permanent members of the Security Council – the United States, Russia and China – should take a cue from the 158 countries that have signed the Convention and move quickly to sign and ratify the Convention in the interest of humanity.

Finally, it is acknowledged that the present status of implementation of the APL Convention gives cause for cheer and optimism and it is urged that the commitment be maintained and even increased.