

Landmines in the Occupied Golan

And Israel's obligations under International
Human Rights and Humanitarian Law



Thijs Maas – Legal Researcher – Al-Marsad – August 2015



Al-Marsad

Al-Marsad – Arab Human Rights Centre in Golan Heights is an independent non-profit legal human rights organisation, located in Majdal Shams, in the occupied Syrian Golan. The Center was founded in October 2003 by a group of lawyers and professionals in the fields of health, education, journalism and engineering - mostly town-planners - as well as human rights defenders and other interested community members. Al-Marsad is a member of Convenio Palestina 2015. For further information contact Al-Marsad at:

Al-Marsad – Arab Human Rights Centre in Golan Heights

P.O. Box 9

Majdal Shams 12438

Golan Heights, Vial Israel

Tel: +972 (0) 4 687 0644

Fax: + 972 (0) 4 687 0645

Email: marsad@golan-marsad.org

Email: golanmarsad@gmail.com

Web: www.golan-marsad.org

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Cover Photo

A warning sign used to indicate minefields laying hidden in tall grass, causing uncertainty about the existence of a minefield on the location, south of Majdal Shams.

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Abbreviations

AP-MINE	Anti-Personnel mine
CCW	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
ICBL	International Campaign to Ban Landmines
ICCPR	International Covenant on Civil and Political Rights
IDF	Israel Defense Forces
IDP	Internally Displaced Person
INMAA	Israel National Mine Action Authority
IMC	Israel Mapping Center
NIS	New Israeli Shekel
UN	United Nations
UNICEF	United Nations Children's Fund

I. INTRODUCTION

ON LANDMINES

Traditionally, landmines have been used in military science as a defensive strategy, aimed at slowing the enemy down or denying armed forces passage through certain terrain. The explosive devices are often concealed or under the ground and are designed to destroy targets that cross them. They can be classified in two main groups; anti-personnel mines and anti-tank mines, aimed at persons and tanks respectively, as their names suggest. Sadly however, minefields tend to last longer than the conflicts they are used in, becoming remnants of war, injuring and killing people for many years after the conflict has ended and rendering areas unusable for decades. This has also been the case in the Israeli occupied Syrian Golan (hereinafter occupied Golan)

Because a landmine is triggered by the victim and detonates automatically, there is no way it can distinguish between a combatant and a civilian. Thus, landmines form a serious and ongoing threat to the bodily integrity of civilians, instilling fear in communities that are surrounded by minefields. The devices can deny populations to fulfil their agricultural needs by rendering land unusable and furthermore they inhibit their freedom of movement. It is for this reason, and the indiscriminate nature of landmines, that in 1992 the International Campaign to Ban Landmines¹ was launched, advocating against the use of landmines. This movement subsequently led to the Ottawa

¹ ICBL, originally a cooperation between [Human Rights Watch](#), [Medico International](#), [Handicap International](#), [Physicians for Human Rights](#), [Vietnam Veterans of America Foundation](#) and the [Mines Advisory Group](#)

Convention, also known as the Mine Ban Treaty.² To date, more than three-quarters (162) of the world's states are party to this convention, agreeing to be bound to the terms entailed by it, including the prohibition of the use, stockpiling production and transfer of anti-personnel mines.

This report, issued by the independent Arab Human Rights Centre Al-Marsad, situated in the occupied Golan, will examine the use of landmines by Israel as occupying power in the Golan. In the aftermath of the Arab-Israeli conflict and the Israeli occupation of the Golan in 1967, millions of landmines have been placed by Israeli occupying forces, which have since constituted a real and lasting threat to the citizens of the Golan. This paper will focus mainly on anti-personnel mines³ in this area, as the use of these mines has become increasingly controversial and has led to a great number of casualties over the years. To date, Israel is not party to the Mine Ban Treaty and it has declared a state of permanent security alert, giving military needs a high priority and treating its defense system, including landmines, as a state secret.⁴ Therefore, official documentation on the use and location of landmines is limited. This report is based on this limited documentation, as well as Al-Marsad's own legal research and local field research. It will first provide a comprehensive historical overview, followed by an examination of the accidents involving mines since 1967 and the non-physical damage suffered by the local community as a result. Moreover, the recent efforts Israel has made in both the clearance of minefields and mine-risk education will be considered. The report will then provide a legal analysis of the use of landmines by Israel in the occupied Golan

² Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction, 1997

³ Anti-Personnel mines or AP-mines will for the purposes and readability of this paper be referred to as mines

⁴ State Comptroller's Report No. 50. 1999 (Hereinafter C.R.)

and finally Israel's legal obligations under international human rights and humanitarian law will be analyzed. It is Al-Marsad's hope to bring the landmine issue in the occupied Golan to the attention both of the national and international community, in order to increase the efforts being made in the de-mining of the region.

HISTORICAL OVERVIEW

During the 1967 Arab Israeli War, Israel captured most of the Syrian Golan, and it has remained under Israeli control since. This region is situated north east of Israel, borders Lebanon, Jordan and Israel and is rich in natural resources — particularly water, gas and oil. The area provides 15% of Israel's water supply⁵, and it is estimated that the soil contains at least a recovery potential of two million barrels of oil, as well as an unknown amount of natural gas.⁶ It is considered an area of great strategic military importance as a result of its elevation and its outlook over vast distances into Syria and Lebanon. Before the occupation, the occupied Golan was home to approximately 140,000 Syrians. The vast majority of them were driven out of the Golan in the aftermath of the 1967 War, becoming Internally Displaced Persons (IDPs) in Syria.^{7,8} Their abandoned villages were later destroyed to make place for Israeli settlements.⁹ Around 6500 Syrians remained in the

5 Haim Gvirtzman, *Israel Water Resources Chapters in Hydrology and Environmental Sciences* (2002, Yad Ben-Zvi Press, Jerusalem) 301

6 Ben Zion, Ilan "Government secretly approves Golan Heights drilling". (*The Times of Israel*, 13 May 2012). <http://www.timesofisrael.com/government-secretly-approves-golan-heights-drilling/> Accessed July 2015

7 Shay Fogelman, "The disinherited" (*Haaretz*, July 30 2010) <http://www.haaretz.com/beta/the-disinherited-1.304959> accessed July 2015

8 Or arguably becoming refugees. However, as the Occupied Golan is regarded as Syrian territory by the international community, they should be regarded as being internally displaced

9 Uri Davis, 'The Golan Heights under Israeli Occupation 1967-1981' (1983) University of Durham, Centre for Middle Eastern and Islamic Studies, Durham) <http://dro.dur.ac.uk/138/1/18CMEIS.pdf> accessed July 2015

Occupied Golan. Today this population has increased to approximately 25,000 Syrians, who continue to live in five small villages: Majdal Shams, Mas'ada, Bqa'atha, 'Ein Qinyeh, and Al-Ghajar.

The international community does not recognise Israel's occupation of the area¹⁰, as it has declared in both the UN Security Council Resolutions 242 (1967) and 338 (1973), which call for complete withdrawal of territorial claims and armed forces in the territories occupied in the aftermath of the 1967 Arab-Israeli War. Israel has refused to implement these Resolutions, declaring it may retain the area as the text of Resolution 242 calls for "safe and recognised boundaries free from threats or acts of force".¹¹ In 1981, Israel effectively annexed the area by extending Israeli law to the territory.¹² Resolution 497, adopted by the UN Security Council in 1981, condemns this annexation and declares the Golan Heights Law "null and void and without international legal effect". Citizens of the Golan were offered Israeli citizenship, which was rejected by the vast majority. Instead of being full Israeli citizens, the local population holds Israeli identity cards, similar to the ones of East Jerusalem, and thus do not enjoy full citizen rights. While the return of the Golan to Syria was a central topic in peace talks between Syria and Israel since 1991, negotiations about the topic came to a dead-end. Today, the Syrian Golan remains occupied by Israel and the Golan Heights Law remains in force.

10 Jan Palmowski, *Golan Heights, A Dictionary of Contemporary World History*.. (first published 2003, Oxford University Press, 3rd edition 2015)

11 Y.Z Blum, *Secure Boundaries and Middle East Peace in the Light of International Law and Practice* (1971) pages 24–46

12 See Golan Heights Law of December 14, 1981

ISRAELI LANDMINE POLICY

Although Israel never acceded to the Mine Ban Treaty, which prohibits the use of landmines, it has declared that it supports the humanitarian goals of the convention. In October 2000, Aaron Jacob, Deputy Permanent Representative of Israel to the UN, explained the logic behind these seemingly contrasting developments in the following way:

*"(...) Israel shares the concern of the international community regarding the indiscriminate use of anti-personnel mines, but in view of its security situation is it is unable to subscribe to a total ban on their use"*¹³

An Israeli representative attending the Second Meeting of State Parties to the Mine Ban Treaty in September 2000 stated that Israel:

*"(...) shares, needless to say, the humanitarian values and goals of the Mine Ban Treaty, and it is participating accordingly in the international programmes of mine-awareness and rehabilitation of victims. Moreover, it supports the international efforts for non-proliferation of anti-personnel landmines."*¹⁴

Indeed, Israel has provided funds for four Israeli volunteers to operate in a mine risk education program in Angola in cooperation with UNICEF, as well as providing support for similar projects in Kosovo and Guatemala.¹⁵

More recently, in April 2007 Joshua Zarka, Counselor of Strategic Affairs of the Israeli Ministry of Foreign Affairs defended the seemingly contradictory

13 Statement to the UN General Assembly, on Agenda Item 47, New York, November 28 2000

14 Statement by Ammon Efrat to the Second Meeting of States Parties to the Mine Ban Treaty, September 2000, p. 2 11

15 Israel, National Annual Report required by Article 13, Amended Protocol II, CCW, submitted November 2002, p. 10

logic behind not ratifying the Mine Ban Treaty whilst supporting its humanitarian goals in the following way:

*"Israel is unable to disregard its specific military and security needs (...) it cannot commit to a total ban on anti-personnel mines as they are a legitimate means for defending its borders against possible incursions such as terrorist attacks."*¹⁶

These security needs have since not been diminished and remain the prime justification for not acceding to the Mine Ban Treaty.¹⁷ Hence, Israel has not attended any Mine Ban Treaty meeting since the First Review Conference in Nairobi in December 2004, when the state participated as an observer. Israel has also abstained from voting in all UN General Assembly Resolution calling for universalization and full implementation of the treaty since 1996. Israel is however a signatory to the 1983 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 amended Protocol II on Mines, Booby Traps and Other Devices.¹⁸ Although the protocol does not contain a complete ban on mines, it does set some regulations on the use of the devices.

16 Email from Joshua Zarka, Counselor for Strategic Affairs, Ministry of Foreign Affairs, 18 April 2007. Israel made a similar statement at the UN First Committee meetings in October 2011, stating "as long as the regional security situation continues to impose a threat on Israel's safety and sovereignty, the need to protect the Israeli borders – including through the use of AP [antipersonnel] mines – cannot [be] diminished." See statement of Israel, UNGA First Committee, New York, 4 October 2011.

17 This was emphasized in a 2010 letter from Eyal Propper, Director of Arms Control Department of the Ministry of Foreign Affairs: "regional circumstances prevailing in the Middle East prevent Israel from committing to a total ban on anti-personnel mines. Unfortunately, these regional conditions have not improved in recent years"

18 Will further simply be referred to as CCW and Protocol II CCW

II. OBSERVATIONS

THE LANDMINE PROBLEM IN THE GOLAN

From the beginning of its occupation of the Syrian Golan, Israel has made substantial efforts to fortify the territory against attacks. Anti-tank ditches were constructed and settlements and military outposts were established along the length of the ceasefire line to act as the first line of defence. Another more extensive and problematic measure taken was the creation of minefields throughout the Occupied Golan. These minefields have remained in place and are concentrated in the area around the 1973 ceasefire line that was established following the 1973 Arab – Israeli War. Furthermore, the Golan also contains the remnants of minefields laid by Syrian and French forces during their control over the territory, as well as mines from the period of the British Mandate, laid by Jordan and Egypt. These minefields are located all over the Golan and are even found within and around occupied Arab villages.

More than 9000 acres are suspected to be mined in the Golan, distributed over around 2000 minefields that vary greatly in size.¹⁹ This number stands in great contrast with the 80 minefields reported in the 1999 State Comptroller's Report. They are mostly found in grazing areas, agricultural land, along the ceasefire border and nature reserves. One of the most contaminated areas is found between Ein Al-Hamreh and Al-Mansurah, where approximately 2500 acres is filled with landmines. This area is known

¹⁹ Explosive Litter, Status Report on Minefields in Israel and the Palestinian Authority (Survivor Corps 2010) p.11

as the grazing area, as some farmers still let their goats graze on the land if absolutely necessary.

Another well-known mine-contaminated area is found about 20km south of Majdal Shams, near Kibbutz Ein Zivan. A natural spring is located there in the midst of a minefield and is a local attraction and source of refreshment. Among many others, even soldiers frequent it in search of quiet and relaxation. In doing so, the field's markings and fences get damaged repeatedly.

Some minefields however are located along the outskirts of and even within towns. One example is a deserted military post of the Israeli occupying forces in Majdal Shams, which surrounded by mines. Although it is clear that minefields found in towns serve no longer serve any purpose they still form a danger to the inhabitants. The gravest dangers arise when snow and heavy rainfall causes mines to be dislocated. The minefield around the deserted IDF post in Majdal Shams has been a source of issues as seen for example in January 2000, when natural conditions moved the mines downhill, contaminating people's backyards and houses. In 2008 Haifa's Magistrate Court ordered compensation to be paid to two inhabitants for damage to their property.²⁰ The mines however, still lay in their backyard, albeit behind some concrete blocks.

Numerous minefields are to be found in the Israeli occupied Golan, but the exact locations, amounts and types of mines are not publicly known as these data are considered a state secret.²¹ Despite of all the existing minefields, in

20 Koby Mandell, 'The state will compensate residents whose homes were damaged in Majdal Shams' (February 11, 2008) <http://news.walla.co.il/item/1233031> accessed August 2015

21 C.R. 1999

August 2011, *Bamachaneh*, the journal of the Israeli army, reported²² that the army laid new anti-personnel mines in the occupied Golan along the border with Syria.

ACCIDENTS SINCE 1967

Since 1967, many civilians have become victim of the landmines placed in the Golan. Difficulties arise in measuring exact numbers, as no official record of landmine casualties is available for inside the state of Israel. Instead, casualties are listed under the umbrella category of “Victims of Hostile Activities”. A report by Al-Haq, a Palestinian human rights organization, reported an estimated number of 66 Arab-Golani mine-victims between the beginning of the occupation and when the report was published, in 2000. Among these, 16 died and 50 were injured.²³

A few observations should be noted when considering these numbers. First, in gathering these statistics, only injuries of great magnitude were included. Second, the numbers exclude accidents involving soldiers, Israeli civilians, tourists and civil employees, as a result of the difficulties in obtaining information about these groups and their involvement in accidents. Finally, a staggering 87% of the 66 accidents recorded, involved victims under the age of 18, of which 39% was even under the age of 10.

The high number of children involved can be explained by several factors. Overall, children are generally less aware of the dangers imposed on them

22 Gil Ronen, ‘Antipersonnel Mines Laid Along Syria Border ‘for September,’ (*Arutz Sheva*, 11 August 2011) <http://www.israelnationalnews.com/News/News.aspx/146650#.VcNSrfgmqpHw> accessed July 2015

23 Shawan Jabarin and Mohammad Abed Rabboh, “Death Traps, Landmines in Golan”, (Al Haq 2000)

by the remnants of war. A contributing factor is the unavailability of mine risk education in the area.²⁴ Moreover, Golan Arab children were traditionally responsible for grazing cattle and helping on the land. Cattle occasionally also graze in mined areas, as there is no abundance of usable land since the placement of minefields. Thus, they are exposed to mined areas on a frequent basis. Finally, it is in a child's nature to play and explore, entering minefields while unaware of risks.

Many accidents have also happened in areas considered to be risk-free. Mines are often moved by natural conditions such as rain, snow or natural earth movements, displacing the mines and rendering safe areas dangerous. The fences are not designed to stop this, and the situation is worsened by the fact that the Golan is a mountainous area, causing mines placed on the hills to slide down-hill, out of the fenced areas. One example is the case of the 4 year old Amir Abu-Jabel, who was killed by a landmine a mere few meters away from his house. He was playing in the backyard of his house when a mine that was swept to the area by rain detonated.²⁵

Since 2000, considerably fewer landmine-related incidents have happened. It is likely that this is attributable to the Israeli efforts in fencing and marking the existing minefields in the Golan. The most notable incident has been the story of an Israeli family that travelled to the Golan to see the snow in 2010. The family of 5 were playing in a snow-covered field amongst other families when one of the children, an 11-year-old boy, apparently detonated a mine. He sustained serious injuries to his legs, while his 12-year-old sister suffered moderate shrapnel injuries in the face. The parents and a third boy sustained

²⁴ See section on Mine Education below

²⁵ Shawan Jabarin and Mohammad Abed Rabboh, "Death Traps, Landmines in Golan", (Al Haq 2000)

minor injuries. They claimed that the area was not properly marked, and that there were no visible signs warning hikers not to enter at all. Daniel Yuval, the 11-year old boy, subsequently started advocating for mine clearance and became the face of the Mine-Free Israel campaign. This eventually led to the Minefield Clearance Act in 2011, sometimes nicknamed 'Danny's Law'. After the many accidents caused by mines involving Golani citizens, it took the accident and subsequent effort of this Israeli family to achieve this major step in clearing the remnants of war in Israel and the Occupied Territories.²⁶

Two other accidents have been confirmed since 2000. The first concerned an Israeli soldiers participating in the clearance of mines for training purposes. The 19-year-old soldier was killed in 2013 by an anti-tank mine while clearing a minefield near Yonatan settlement that located in the south of the occupied Golan. Two others got mildly injured.²⁷ The second accident has been in 2015 when an Israeli officer lost her foot in a landmine explosion near the cease fire line. This did not occur in a minefield but was presumably the result of a mine being swept from its original location by weather conditions.²⁸

NON-PHYSICAL DAMAGE RESULTING FROM MINES

Apart from the civilian casualties, Al-Marsad has frequently received reports of incidents where farm animals were killed by mine blasts, resulting in

26 Julia Mitchell, 'A Survivor's Hope' The Journal of ERW and Mine Action
<<http://www.jmu.edu/cisr/journal/15.2/focus/mitchell/mitchell.shtml>> accessed august 2015

27 Asher Zeiger, 'Soldier killed in Golan minefield accident' (Times of Israel, 21 May 2013)
<http://www.timesofisrael.com/soldier-killed-in-idf-training-accident/> accessed July 2015

28 Yaakov Lappin, IDF officer loses foot in landmine explosion in Golan Heights (Jpost, 2 April 2015)
<http://www.ipost.com/Israel-News/IDF-officer-injured-by-landmine-explosion-in-Golan-Heights-389969> accessed july 2015

serious economic loss for the owners. One farmer has estimated that since 1967 he has lost more than 50 cattle due to landmines. It should be noted that much of the minefields threatening Arab villages today have been laid on land appropriated from Arab farmers. This appropriation was justified by the Israeli occupying forces for the purpose of planting mines. Appropriated lands include grazing areas, as well as land inside and in the direct vicinity of villages.

The latter has proven to be an impediment to the Golani people for the construction of new houses and infrastructure. The importance of this fact is apparent when one considers the growth in population of the local community: from less than 7,000 in 1968 to approximately about 25,000 in 2015. The mine placements in and around the villages restrict the extension of these villages to match this increase in population. Israeli settlements in the area have not been affected by the minefields, as the fields were often cleared in order to make room for such settlements. Even now, while an official authority has been appointed to clear minefields in 2011, there are still minefields inside the villages and around it.

Moreover, as mines are found in the direct vicinity of schools, houses and streets they serve as an impediment to the free movement of the locals and create a constant sense of fear among the local community. Concern is especially expressed around children, as it is in their nature to play and explore. It is no surprise that the majority of victims of landmine accidents in the area have been children. This has created a permanent psychological burden imposed on parents, caused by worry and fear for more accidents. This fear is only increased by the above-mentioned displacement of mines by natural conditions. Because there is no way to be sure this has not occurred,

there is no way to guarantee one's safety in many areas. This displacement therefore not only serves as a permanent threat to the Golani population, but also as a psychological burden caused by the permanent uncertainty about the safety of virtually any area.

The placement of the minefields has also rendered much of the land around the villages useless for agricultural, infrastructural or any other use. The native Syrian residents of the occupied Golan have traditionally been primarily occupied with farming and grazing cattle and as such the economic impact the minefields have had and still have is not to be underestimated. After the appropriation of their land, the farmers have generally not been compensated. In some rare cases farmers have received some compensation for lost lands, but the compensation was far below market value and these cases were the exception to the rule.

Over the years, tourism has become an increasing stream of revenue. The occupied Golan is known for its beautiful nature and it is ideal for hiking. It is not hard to see how the existence of mine fields impacts this sector. News of mine accidents where people were injured or even killed tends to scare away the risk-averse tourists. The tourists that do come are limited in their freedom to go hiking due to the risk of unknowingly entering a minefield, and the uncertainties and fear that go with this knowledge do not contribute to a care-free holiday. Especially the fact that the only ski-resort in Israel is situated in the Golan should bring a lot more tourists than it does, and the great majority of tourists that do come, stay near the resort. Again, all of this has an immense negative economic impact on the local community.

MINE CLEARANCE

All mines placed before 1967, as well as most minefields in the Golan that are placed on the Israeli side of the ceasefire line and along the Golan, have long ceased to have any military importance. Already in 1998, it was noted in the annual Israeli State Comptroller's Report²⁹, that no security need is served by at least 350 of the minefields found in Israel and the Occupied Territories. This estimation was confirmed in 2002 by a report published by the Knesset Research Unit.³⁰ In the meantime the mines continued to take lives, cause severe injuries and form a major obstacle to free movement, economic development and tourism in many areas. Nevertheless, Israel did not begin with the clearance of mines till 2011, when the Mine-Free Israel Campaign petitioned the Prime Minister and Members of Knesset to support a draft bill. The result of the successful campaign was "Danny's Law" - Mine Field Clearance Act.³¹ It established the Israeli National Mine Action Authority (INMAA), responsible for planning, coordinating, supervising and executing the civilian demining operation in Israel. The INMAA defines demining policies and priorities and implements them in coordination with other relevant governmental ministries, the Israeli army and local authorities.

After continued advocacy of Al-Marsad about the landmine issue in the area, one of the 9 projects that the INMAA took upon itself so far, was in the Golani town of Majdal Shams. The INMAA has reported that a minefield on a hill towering the town that once served as an outpost for the Israeli army and

29 C.R.

30 Knesset Research Unit, "Preparatory preview document for discussion on mine action in the IDF," 28 January 2002.

31 *Mine Field Clearance Act*, 5771-2011, 14 March 2011.

over the years caused a number of accidents has been cleared for civilian use. All mines were cleared and all immediate danger has been removed, according to the authority's website.³² As such, the mine-clearing project in Majdal Shams has officially ended. A sad fact, as there are other, more dangerous minefields in Majdal Shams that are left untouched. Some of these are literally found in people's backyards and only a few hundred meters away from a primary school. Moreover, in the center of Majdal Shams a military outpost still exists, surrounded by a minefield. To date, the minefields continue to serve as a threat to the people of Majdal Shams. Instead of clearing these however, the INMAA cleared the hill next to the town. This raises questions about the organization's priority setting. This priority setting is done by the INMAA in combination with other relevant governmental ministries, the Israeli army and local authorities. Naturally, the fact that there are no local authorities in the occupied Golan does not help. Al-Marsad has inquired about the process of priority setting with the INMAA, but received no response. However, the INMAA does maintain a "minefield information bank" that is open to public queries by relevant civilian municipalities and establishments, containing the plans and programs of demining, as stated in Israel's annual report on Protocol II CCW.³³

Since its establishment in 2011, the INMAA cleared and released a total of more than 5,100,000 m² of land. This sets the yearly average amount of land cleared at 1,700,000 m². Our estimations provide that it will take the IMNAA at its current pace approximately 115 years to clear the 197 km² of mine-

32 See <http://www.inmaa.org.il/HE/EvacuationSites/Pages/MagdelShams.aspx>

33 2015 Israel National Annual Report submitted June 2015 in accordance with Article 13, para. 4

Amended Protocol II, retrieved at

[http://www.onug.ch/80256EDD006B8954/\(httpAssets\)/C9CF426CBB0E3ADDC1257E7400372D08/\\$file/2015_Israel_APII_NAR.pdf](http://www.onug.ch/80256EDD006B8954/(httpAssets)/C9CF426CBB0E3ADDC1257E7400372D08/$file/2015_Israel_APII_NAR.pdf) hereafter 2015 N.A.R. Amended Protocol II

contaminated land in Israel and the Occupied Territories.³⁴ The slow progress can be explained by the low budget of 27 million NIS (US\$ 7.3 million) that is to be supplemented by donations.

MINE EDUCATION

Under Article 9 of Amended Protocol II CCW a legal obligation exists for parties to record all information concerning minefields, including maps indicating their locations, perimeters and extent. All such records shall be retained by the parties to a conflict, who shall, without delay after the cessation of active hostilities, take all necessary and appropriate measures, including the use of such information, to protect civilians from the effects of minefields, mined areas, mines, booby-traps and other devices in areas under their control. Thus, in order to fulfil this legal obligation to participate in mine-risk education, the Minefield Clearance Act of March 2011 requires the INMAA to promote, plan and conduct activities to raise public awareness to mine safety, especially for people living in areas near minefields. This is mainly achieved by an awareness campaign video clip, which has been broadcasted in public media. The INMAA also reported to have an “active” Mine Risk Education plan, developed in cooperation with the Ministry of Education and the National Parks and Reserves Authority.³⁵ This education plan is supposed to provide information regarding mine awareness to the civilian population. However, it has come to the attention of Al-Marsad that no such education is provided in the schools of the Israeli occupied Golan,

³⁴ As the exact total amount of mine-contaminated land is not known, the number used in this calculation is an estimation by Mine-Free Israel – a campaign coordinated by White's Roots of Peace International in cooperation with the Association for Civil Rights in Israel, the Center of Regional Councils and the Council for a Beautiful Israel.

³⁵ 2015 N.A.R. Amended Protocol II CCW

even though the area clearly qualifies as one of increased risk. The situation becomes even more questionable considering the mine awareness education that Israel funds in Kosovo, as well as survivor training and rehabilitation programs in Guatemala. Surely the Golani population should be able to receive education in these matters. Proper dissemination of information relating to the risks of mines is core to protecting the native Syrian citizens of the Golan. Especially education in primary schools should be seen as a priority as children have are disproportionately represented in mine incidents.

Under Article 9 Amended Protocol II CCW any State Party is also required to record all information concerning minefields, including maps indicating their locations, perimeters and extent. Since 2002, maps containing clear markings regarding the topographic location of minefields are developed and issued by the Israeli Mapping Centre (IMC), and reportedly available to the public.³⁶ Al-Marsad has inquired about the availability of these maps with both the IMC and INMAA, but has not gotten any response and has not been able to obtain them.³⁷ A number of hiking trail maps do mark the locations of most non-operational minefields and other areas suspected of containing mines.³⁸ However, all the maps indicating minefields are in Hebrew. Maps in Arabic, which is the other official language of Israel and remains the main language in the Occupied Golan, are not available. Nor do they appear in English for non-Hebrew speaking tourists.

³⁶ 2002 N.A.R. Amended Protocol II.

³⁷ This will be updated accordingly

³⁸ Hiking Trails Map Series, Scale 1:50000, Survey of Israel, 2003-2004

III. LEGAL ANALYSIS

ILLEGALITY OF NEW PLACEMENT OF MINES UNDER AMENDED PROTOCOL II CCW

Any new placement of new landmines is arguably illegal under customary international law as mines are by nature indiscriminate and devices that cause superfluous injury or unnecessary suffering. This section however will instead focus on black and white obligations Israel has committed itself to. The Israeli ratified Amended Protocol II on Mines, Booby Traps and Other Devices sets a number of regulations on the use of the landmines. Some of these regulations have been violated by Israel in August 2011, when the Israeli army laid anti-personnel mines along the cease fire line in the occupied Golan. It was reported by the Israeli army's magazine Bamachaneh that the mines were placed beyond the ceasefire-line security fence but within the 'Alpha Line' that marks the border with Syria.³⁹ The ICBL has denounced the new placement of mines to be "shocking" and "disgraceful" and the president of the 10th Meeting of State Parties to the Mine Ban Treaty has expressed his deep concern.⁴⁰

The mines were laid in reaction to the developments around the annual Palestinian commemoration of 'Nakba Day', the annual day of

39 Gil Ronen, 'Antipersonnel Mines Laid Along Syria Border 'for September,'" (*Arutz Sheva*, 11 August 2011) < <http://www.israelnationalnews.com/News/News.aspx/146650#.VcNSrfmqHw>> accessed July 2015

40 Steve Goose, ICBL statement at the CCW Amended Protocol II conference. Text available at < <http://www.icbl.org/en-gb/news-and-events/news/2011/icbl-statement-at-the-ccw-amended-protocol-ii-conf.aspx>>

commemoration of the displacement of Palestinians in the time of the Israeli Declaration of Independence. During this day on May 15 2011, mass demonstrations were held close to the cease fire-line. In an unprecedented development, thousands of people marched towards the ceasefire borders with Israel⁴¹, resulting in a breach of the security fence and allowing the Syrian IDP's and Palestinian refugees to cross the border into the Syrian Golan. They reached the town of Majdal Shams and protested there against the Israeli occupation. In doing so, they crossed a minefield resulting from the 1973 Arab-Israeli War. Similar developments surrounded Naksa day, on the 5th of June 2011. A Syrian crowd of around 1000 protesters tried to reach the ceasefire line. Israel had by now made trenches filled with barbed wire, but they did not seem to deter the crowd. This led to the use of live ammunition by the Israeli army, injuring around 350 and killing 23.⁴² Following these incidents, Israel placed a fresh batch of mines along the cease fire line, to prevent this from happening again. Engineering officer Major Ariel Ilouz told Bamachaneh that:

"The landmine laying activity follows Nakba Day and is meant to strengthen and thicken the barrier. (...) The matter was expedited, of course, in advance of September. This whole obstacle, which includes anti-personnel ditches, fences and more, is designed to block infantry forces as well as a charging crowd of people. That, in coordination with our military forces and snipers, is supposed to delay and prevent the crossing of the border by a mass of

41 Gideon Biger (17 May 2011). ["Israel was infiltrated, but no real borders were crossed"](#). *Haaretz*. Retrieved 18 May 2011

42 See Al Marsad's Position Paper on the Nakba and Naksa Day Protests at the UN Monitored Ceasefire Line Near Majdal Shams, Occupied Syrian Golan, 20 September 2011

people”⁴³

In this statement it was noted that the new landmines were laid in anticipation of the developments in September 2011. The Palestine 194 Campaign by the Palestinian National Authority that pushes for membership in the United Nations for the State of Israel had gained prominence during the lead-up to the 66th Session of the General Assembly in September 2011, when Palestinian president Mahmoud Abbas would submit the application for membership to the UN. Thus, mass demonstrations were anticipated and to avoid further ceasefire line crossings by demonstrating Syrians, the new landmine defense line was laid, as the old one did not repel people properly as the mines were “full of mud” and “simply stuck”.⁴⁴ It can therefore be said that the primary target of the newly placed mines is the civilian population of Syria and the Palestinian refugees. Article 3(7) of the Israeli ratified Amended Protocol II CCW expressly forbids the use of mines against civilians. It states that:

“It is prohibited in all circumstances to direct weapons to which this Article applies, either in offence, defense or by way of reprisals, against the civilian population as such or against individual civilians or civilian objects.”

Thus, the developments of August 2011 are clearly in violation of this article, as mines are used directly against the Palestinian refugees and the civilian population of Syria. However, one could argue that the new mines are not

43 Gil Ronen, ‘Antipersonnel Mines Laid Along Syria Border ‘for September,’ (Arutz Sheva, 11 August 2011) <http://www.israelnationalnews.com/News/News.aspx/146650#.VcNSrfgmqHw> accessed July 2015

44 According to Israeli army Maj. Ariel Ilouz, “Because of age, rain and other natural hazards the antipersonnel mines that were laid along the border were full of mud.... They were simply stuck. These mines have been as [sic] old as 35–36 years and have not been touched.” Or Butbul and Reut Farkash, “Operation Mine,” www.idf.il

placed with the intention of keeping civilians away and that the border crossings on Nakba Day merely brought the ineffectiveness of existing minefields to light. Ignoring the above-mentioned statements this argumentation could make sense in the light of the strategic military importance of the area. However, even if the new minefields were not directly aimed at stopping civilian from crossing the ceasefire line, their placement can still be seen as a violation of international humanitarian law. Article 3(8)(c) Amended Protocol II CCW requires that the indiscriminate use of mines may not be to cause incidental of civilian life or injury to civilians which would be excessive in relation to the concrete and direct military advantage anticipated. The expression “concrete and direct overall military advantage” refers to a military advantage that is foreseeable by the perpetrator at the relevant time. It reflects the proportionality requirement inherent in determining the legality of any military activity.⁴⁵ Thus the advantage gained must be proportional to the expected injury to civilians. The military advantage here would be the renewal of old defensive lines, while the expected risk of injury to civilians was substantial, as new demonstrations and border crossings were foreseeable. Hindsight information does not diminish or justify the risk taken in the placement of these mines and thus, even if this placement would not be illegal under Article 3(7), it would be under Article 3(8)(c) as a consequence of the disproportionate relation between the military advantage gained and the foreseeable injury to civilians resulting from the mines.

45 Finalized draft text of the Elements of Crime, adopted by the 23rd Meeting of the Preparatory Commission of the ICC, New York, 30 June 2000, UN Doc. PCNICC/2000/INF/3/Add.2, Addendum 6 July 2000 as adopted by the Assembly of States Parties, First Session, 3-10 September 2002, Official Records of the Assembly of States Parties to the Rome Statute of the ICC, UN Doc. ICC-ASP/1/3, 25 September 2002 and ICC-ASP/1/3/Corr.1 31 October 2002, Footnote 36

The creation of minefields in 2011 by Israel has been one of the very few instances of new mine-placements by Amended Protocol II signatories in many years. However, not a single other signatory state has remarked upon this development and Israel has not disclosed any further information in its Annual Reports to the CCW.⁴⁶ More specifically, Article 5.2 requires any signatory to share details on steps taken to ensure the effective exclusion of civilians from mine areas. As noted above, the 2011 placement of mines is illegal for it is aimed directly at civilians and as such it is no wonder Israel did not include any information about it in its Annual Report. That no other signatory state has made a statement regarding this or even inquired about it displays a definite lack of transparency and accountability concerning Amended Protocol II CCW.

RULES ON FENCING AND MARKING IN AMENDED PROTOCOL II CCW

In the same protocol there are provisions to be found imposing a set of minimum precautions in order to protect civilians from mines. Therefore, Israel is bound under Article 3(10b) to undertake any possible measures, including proper fencing, signs, warning and monitoring, to protect civilians from unknowingly entering a minefield. According to Al-Marsad's information, the Israeli efforts in this area have resulted in most minefields in the Golan now indeed being fenced off and indicated with warning signs. However, most is not all and the effects of the exception to the rule in a matter like this can be disastrous. Observations from our field workers report

46 2011 N.A.R. Amended Protocol II CCW, retrieved at:

[http://www.unog.ch/80256EDD006B8954/\(httpAssets\)/EC5389645827F815C12578990051937F/\\$file/Israel+2011.pdf](http://www.unog.ch/80256EDD006B8954/(httpAssets)/EC5389645827F815C12578990051937F/$file/Israel+2011.pdf)

that even though most minefields are indeed surrounded by fences, the fences are occasionally in an inadequate state. Al-Marsad has observed broken fences, fences that have fallen down and warning signs facing the wrong way. The Israeli authorities have accepted the provisions concerning marking and fencing in Amended Protocol II while declaring that it understands that provisions of the Amended Protocol II, such as those regarding marking, monitoring and protection of areas containing mines under the control of a high contracting party, shall apply to all areas containing mines, regardless of when the mines were placed.⁴⁷ As such, it is Israel's duty to comply with the protocol's provisions. Especially the requirements found in the technical annex accompanying the convention are not wholly satisfied. More specifically, section 4e requires that signs should be placed around the minefield or mined area at a distance sufficient to ensure their visibility at any point by a civilian approaching the area. A person should be able to recognize the existence of a minefield regardless of his position towards it. Sadly, this requirement is often not fulfilled; a requirement that is crucial to the objective of Article 3.

The Israeli occupying forces are required to check the fencing and warning signs of each minefield yearly and in some cases even every six months.⁴⁸ These inspections should solve the inadequacies observed and should provide for the protection of the civilian population. The potential harm inflicted to civilians as a result of improper precautions concerning even a single minefield grossly outweighs the costs and efforts of these regular inspections. Therefore, Al-Marsad urges the Israeli authorities to comply with

⁴⁷ Declaration by Israel while consenting to be bound by Amended Protocol II, retrieved at: https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=XXVI-2-b&chapter=26&lang=en
⁴⁸ C.R.

their regulations concerning these inspections to keep the civilian population safe from the dangers of the remnants of war.

ISRAEL'S LEGAL RESPONSIBILITY TO PROTECT THE NATIVE SYRIAN POPULATION OF THE OCCUPIED GOLAN UNDER THE 4TH GENEVA CONVENTION

All of the observations in part two of this paper raise the question whether enough is being done to protect the civilians of the Golan from unnecessary risks relating to mine incidents. The Golan is an Israeli occupied area and therefore Israel has a responsibility to protect its citizens under international humanitarian law. More specifically, the Fourth Geneva Convention has been called into existence for the exact purpose of protecting citizens who find themselves in a war zone or in the hands of an occupying power of which they are not nationals. Article 3 declares that protected persons will in any circumstance be protected from violence to life and person, and thus from mines. A protected person is defined in Article 4 to be anyone finding themselves *"at any given moment and in any matter whatsoever (...) in the hands of a Party to the conflict or Occupying Power of which they are not nationals"*

As Israel has effectively annexed the Golan in 1981 by extending Israeli law to the region with the Golan Heights Law and trying to impose citizenship on the locals. Israel since sees the Golan Heights not as an occupied area but instead as part of Israel's North District. Therefore, the 4th Geneva Convention, which specifically deals with the protection of persons in occupied territory would not apply. This is however severely flawed

reasoning. Firstly, it is stated in Article 2 that the Convention shall apply to “*all* cases of partial or total occupation of the territory of a High Contracting Party.” This implies that there are no exceptions as to what defines an occupation, as long as the applicable circumstances conform to the wording of Article 42 Of the Hague Conventions, in which it is stated that “Territory is considered occupied when it is actually placed under the authority of the hostile army”. It is clear that this requirement is fulfilled in the case of the Syrian Golan.

The effective annexation of the territory by the extension of Israeli law to the area in 1981 can also have no effect on the legal status of the territory, as it is held in Article 47 of the 4th Convention that protected persons who are in occupied territory shall not be deprived, in any case or in any manner whatsoever, of the protection of the convention by annexation of whole or part of the occupied territory. Moreover, UN Security Council Resolution 497 declared the Golan Heights law of 1981 “null and void and without international legal effect”. As such, the international community recognizes the legal status of the Golan to be one of occupation. Thus, it is clear that the native Syrian citizens of the Golan are protected by the 4th Geneva Convention. The frivolous arguments brought up by Israel do not stand against the bodies of international law ensuring this applicability. Israel, as occupying power, is bound by a legal responsibility to protect the Syrian civilian population of the occupied Golan under international humanitarian law from harm and is as such responsible for the harm caused by landmines to the Golani population.

ISRAEL'S LEGAL OBLIGATION TO PROTECT THE SYRIAN POPULATION UNDER HUMAN RIGHTS LAW

Human Rights Law exists to protect the lives, health and dignity of individuals in a way that is complementary to international humanitarian law. It consists of a number of instruments that apply universally regardless of nationality, location or any other status at any time anywhere. The right to life can be seen as the most important human right as it entails the idea that every human being has the right not to be arbitrarily killed by another human being. The right is protected within a range of instruments, all of which Israel has ratified or is subject to as a recipient of customary international law:

- Article 3, Universal Declaration of Human Rights 1948;
- Article 6(1), International Covenant on Civil and Political Rights 1966;
- Article 6, Convention on the Rights of the Child 1989;
- and United Nations General Assembly Resolution, 'Extrajudicial, Summary or Arbitrary Executions', 12 November 2010.

ICCPR General Comment No 6, 1982 clarifies what is meant by the right to life. It states the right to life is:

“the supreme right from which no derogation is permitted even in time of public emergency which threatens the life of the nation... it is a right which should not be interpreted narrowly...”.

The United Nations have further called upon States “to ensure the effective

protection of the right to life of all persons under their jurisdiction".⁴⁹ It is a state's duty to not only respect but also ensure this right under customary international law. Landmines are indiscriminate in their destructive nature and seem to be irreconcilable with the right to life and security of individuals. Moreover, as the right to life applies regardless of nationality or origin, it should not only be ensured in relation to the citizens of the occupied Golan but also the Syrian citizens. As such, the placement of mines in 2011 by the Israeli army without any fencing or warning along the ceasefire line with Syria constitutes a disproportional possibility of infringement of this universal right, especially in relation to recurring Syrian civilian protests along the ceasefire line.

⁴⁹ A/C.3/65/L.29/Rev.1, 'Extrajudicial, Summary or Arbitrary Executions', 12 November 2010, at para 6(b).

IV. CONCLUSION AND RECOMMENDATIONS

Israel has a legal obligation towards the native Syrian civilian population of the occupied Golan under both the 4th Geneva Convention and international human rights law to protect them from any harm to life or person. Moreover, it committed to restrictions on the use of landmines found in Amended Protocol II of the Convention on Certain Conventional Weapons. The new placement of mines along the border with Syria in 2011 has constituted a definite breach of these restrictions as the mines were placed in anticipation of civilian protesters crossing them.

legal obligations to protect its people from unnecessary harm by way of monitoring and marking of mine-contaminated areas, dissemination of mine-related information and mine-clearance. This report has sought to analyze the Israeli implemented mechanisms to conform to these obligations and determine their effectiveness and degree of compliance. In doing so, Al-Marsad has observed that although Israel has many of the necessary mechanisms related to mine-awareness, education, fencing and mine clearance in place, they often fall short of achieving their ultimate respective goals in practice. Therefore, while considering the physical, psychological and economic damage caused by the minefields in the Golan Heights since 1967, Al-Marsad urges Israel, in order to fulfil its obligations under international humanitarian and human rights law to:

- Accede to the Mine Ban Treaty and refrain from any further mine-placements.
- Consider mine clearance inside the populated Arab villages of the occupied Golan and around them as a top priority in order to guarantee the safety of the population.
- Fulfil its obligations under Article 3(10b) CCW and the specifications found in Section 4 of its Technical Annex to undertake any possible measures, including proper fencing, signs, warning and monitoring, to protect civilians from unknowingly entering a minefield.
- Continue to monitor and maintain the fencing and marking of mine-contaminated areas in accordance with the relevant AP II provisions embodied in the military regulations.
- Increase the accessibility and/or availability of maps containing clear markings regarding the topographic location of minefields issued by the Israeli Mapping Center in order to comply with Article 9 CCW and Section 1 of its Technical Annex.
- Provide Mine-Risk Education for primary schools in the occupied Golan as well as any other area of increased mine-risk to increase mine-awareness and decrease mine-related incidents.
- Increase the INMAA's annual budget in order to increase the overall speed of mine clearance.
- Provide for transparency in the INMAA's priority setting by requiring the authority to publicly publish the protocols related to the matter.

AL-MARSAD - Arab Human Rights Centre in Golan Heights

P.O. Box 9

Majdal Shams 12438

Golan Heights, Via Israel

(phone) 972-4-687-0644

(fax) 972-4-687-0645

Email: marsad@golan-marsad.org

Web: <http://www.golan-marsad.org>

