AV Mines: IHL Rules and Challenges

CCW
Meeting of Experts
2 April 2012
Mine:
A munition designed to be placed under, on or near the ground or other surface area and to be exploded by the presence, proximity or contact of a person (AP mine) or vehicle (AV mine).

AP Mine – designed to be detonated by a person

MOTAPM – Mine Other Than Antipersonnel Mine
- All landmines not detonated by a person
- Focus on anti-vehicle mines (not defined)

Improvised mines are mines: not IEDs
Customary Law Rules: all parties/all conflicts

- Take all feasible precautions to protect civilians
- Take “particular care” to avoid indiscriminate effects (examples: warning population, marking, fencing, monitoring)
- Record locations “as far as possible”
- Clear, render harmless or facilitate clearance after end of active hostilities
CCW Amended Protocol II (1996) applies only to States party

- User is responsible to clear or provide assistance for clearance of all mines used.

- Location of all mines used must be recorded and details provided (post-hostilities) to party in control of territory and UN Secretary-General.

- No detectability requirement for AV mines

- Use in marked, fenced & monitored minefields is only a “feasible precaution” for AV mines – not requirement

- Remotely delivered AV mines (used outside minefields) prohibited unless they employ self-destruction and self-deactivation mechanism “to the extent feasible”
Challenges

- Weak rules, including only 1 specific rule for AV mines (S/D & S/N to the extent feasible for remotely-delivered)
- Marking, monitoring, warnings to civilians too often not implemented
- Clearance by users – frequently ignored
Questions

- Are self-destruct or self-deactivation more “feasible” now than when Protocol adopted?
- Can use outside marked, monitored areas be considered “responsible” or justifiable under IHL?
- Why does clearance so often not occur?
- Sensitive fuses?
Can indiscriminate effects be addressed?

- Design of most AV mines makes them impossible to "target" solely against specific military objectives.
- Traditional approach has depended on the following kinds measures:
  - Civilians kept away by warnings, marking, monitoring,
  - Clearance immediately after cessation of active hostilities
  - Self-destruct or self-neutralization

In far too many conflicts, these measures have been ignored or failed to protect civilians. If the humanitarian problem persists the legitimacy of AV mines as a weapon will increasingly be questioned.