

The ICRC's Role in Handling Victims of Explosive Remnants During The Civil War in Myanmar in View of the International Regime

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ABSTRACT

This paper explains how the role of the ICRC in dealing with victims affected by the remnants of weapons and explosives from the post-war war in Myanmar. This paper explains the causes of the Myanmar civil war then explains how the fate of victims affected by mine explosions or other weapons which are remnants of weapons of civil war in Myanmar. And also explains how the law on the rest of the explosives. This paper uses international regime theory, a set of principles, norms, rules, implicit or explicit decision-making procedures, and decision-making procedures where actors' expectations meet. And also this writing is based on descriptive qualitative methodology and also uses library research. The results of this writing explain the roles of the ICRC in handling this case and also analyze how the safe level that the victims of war must obtain.
Keywords: *explosive Remnants, Civil War, Myanmar, ICRC, International Humanitarian Law*

INTRODUCTION

2021 is the year when the Junta Military Forces take over the government of Myanmar where Min Aung Hlaing becomes the leader of the junta military and also becomes the leader of the democratically elected country of Myanmar. The Junta Military Forces also detained the previous legitimate leader, Aung San Suu Kyi. Then after the actions of the Military Junta, the following years were difficult, because many ethnic groups and armed groups committed acts of violence. There were many mass protests against the military junta's decision to push for the restoration of democracy.

Before these complicated tensions occurred, Myanmar already had several ethnicities and armed groups. There are about 24 groups in Myanmar and there are also hundreds of military in Myanmar. Since the coup, there are approximately 300 troops called the People Defense Force or commonly abbreviated as PDF. This PDF group is under the control of the NUG National Unity Government. In addition, there are still many criminal cartels that have managed to enter and increase their influence over the past four years. But instead of uniting to overthrow the military junta, they are fighting among themselves and other ethnic groups. (Wella, 2024).

Because of the conflicts that have occurred in Myanmar in the last four years, not a few civilians who do not belong to any ethnic or armed group have been affected by the war. For example, the remnants of active weapons or explosions that are still functioning

have a huge impact on civilians. UNICEF says that the number of landmines and other explosives used indiscriminately by all sides of the conflict is increasing every year (Rauter, 2024). Therefore, this paper aims to analyze the roles of the ICRC on victims affected by the remnants of active weapons and explosives that occurred in Myanmar. By using the international regime theory developed by Stephen D. Krasner. With this approach, this research will explain the roles of the ICRC and also some laws that explain the prohibition of explosives.

METHODS

The theory of international regimes forms the basis of this paper. According to Stephen Krasner, the International Regime is a collection of implicit or explicit norms, rules, decision-making processes, and principles that form the basis for players' expectations. The functioning of international institutions, organizations, governments, and entities that have a set of values, guidelines, and standards in a certain area of international activity determines how effective a regime is. In addition to formal treaties and national laws, regimes rely on unofficial networks and norms to establish and uphold standard behavior in areas of global policy (Benedict, 2001).

For instance, during the Cold War, governments that managed the advancement and proliferation of nuclear weapons had some degree of success. These regimes were essential for halting the nuclear arms race between the US and the USSR, averting nuclear war, and containing the proliferation of nuclear weapons and technologies. The Anti-Ballistic Missile Treaty of 1972 and the Nuclear Nonproliferation Treaty of 1968, among other formal treaties and international accords, served as the foundation for these regimes. The United Nations International Atomic Energy Agency was also given limited enforcement authority. However, the regimes rely on trust derived from accepted norms on the risks of nuclear weapons, their development, manufacture, and spread, in addition to a variety of formal and informal surveillance mechanisms, to ensure compliance (Krasner, 2004).

In this theory, the ICRC is an actor who controls civilians who are victims of the remnants of active weapons and the explosion of civil war in Myanmar. According to Stephen Krasner, regimes are critical in making decisions to control a variable actor so as to regulate the course of a system. With this explanation, the author connects this theory with cases that occur in Myanmar, namely victims of the remnants of civil war explosions in Myanmar. In this writing, the author uses descriptive qualitative research methods. This method as explained by Moleong is a research approach where the data collected are in the form of words, pictures, and not numbers (Moleong, 2018). This approach aims to describe the object of research or research results without conducting in-depth evaluation or making general conclusions. This method is used to understand phenomena thoroughly and explain the quality or characteristics of social influences that cannot be measured quantitatively.

The data collection technique used in this study is the library research method, in which the author collects information and data using various sources available in the library such as documents, books, magazines, historical records, and others. This method helps in the collection of information for this study (Mardalis, 2006). The author explains that library research is a structured process to collect, analyze, and conclude information using certain methods or techniques. The aim is to find solutions to the problems faced through a literature review.

RESULT

The Origins of Myanmar's Civil War

In 1988, student activists in Myanmar organized massive protests in response to economic inequality caused by military rule and demanded reforms toward a democratic system. These events included the 8888 Uprising which was characterized by brutal security force violence, causing the deaths of around 5000 people. In the same year, Aung San Suu Kyi founded the NLD to push the military government to hold democratic elections.

Under domestic and international pressure, Myanmar held general elections in 1990 which were won by the NLD. However, the military junta rejected the election results and sentenced Suu Kyi to house arrest. To maintain control of the government, the military-drafted a new constitution in the following years that gave 25% of parliamentary seats to military officials. Based on this constitution, another general election was held in 2011 which was won by the Union Solidarity and Development Party (USDP) (Yasa, 2022).

During the USDP's rule from 2011 to 2016, General Min Aung Hlaing had a great influence on Myanmar politics. The 2015 general election resulted in a victory for the NLD, but Suu Kyi was unable to serve as President due to constitutional restrictions imposed by the military. When Htin Kyaw became President, he created the post of State Counsellor which allowed Suu Kyi to become the de facto leader of Myanmar's government. During this period, the relationship between the military and Suu Kyi's government was relatively good at first. General Min Aung Hlaing began to adapt and cooperate with the NLD government. However, the military continued to maintain its power by blocking the NLD's efforts to revise the constitution and limit the power of the military. Suu Kyi herself was heavily criticized by the international community for being considered to provide a defense for the Myanmar military in a case involving allegations against the military related to the massacre of ethnic Rohingya. The February 1, 2021 coup marked a drastic change in the relationship between the military and the government. This raises many questions from analysts, including what exactly prompted the military to carry out the coup, and what the hidden objectives of the action were (Firmas, 2003).

While it is too early to make a fully accurate analysis, the military's actions in taking power and handling the protests are early considerations in choosing a strategy to return Myanmar to a democratic path. The promise to hold new, more democratic elections is contradicted by the very act of overthrowing a legitimately elected civilian government. This clearly contradicts the principles of democracy, the rule of law, constitutional government, and respect for human rights. The arrest of Suu Kyi and other political figures also reminded the people of Myanmar of the abuses, torture, and abductions that often occurred during past coups.

On the other hand, the military coup and Suu Kyi's detention have sparked outrage across Myanmar. Thousands of demonstrators, most of them young people, have staged four separate protests against the military coup in the country. These demonstrations took place amid tight security and access restrictions in Yangon, Myanmar's largest city. Meanwhile, Myanmar's military has been actively practicing violence and arrests against citizens who oppose their regime. According to data from the Legal Aid Association for Political Prisoners as of 2021, a total of more than 510 people have been killed and more than 3000 detained since the February 1 coup.

Initially, the coup by the Myanmar Junta was met with peaceful protests and a widespread civil disobedience movement. However, the military junta's continued repressive measures turned these non-violent protests into armed resistance. Civilians opposed to the military junta began to fight back by forming the People's Defense Force or PDF. Today, the military junta's forces are increasingly being pushed back on the battlefield by a coalition of resistance forces. The military's influence is weakening in Sagaing and Magway, two regions that are largely administered by the junta. The military junta also lost border areas controlled by the local ERO. By mid-April 2023, the military junta controlled less than half of Myanmar's territory, around 72 of the 330 townships. (Indo Pacific Defense Forum, 2023)

Since the coup, approximately 250 to 300 People's Defense Force (PDF) groups have been formed with a total number of fighters estimated at 65,000. Some PDF groups are under the control of the National Unity Government (NUG), while others act independently or in close coordination with larger armed ethnic groups. In addition, criminal cartels have managed to expand their influence over the past four years, and inter-ethnic conflicts continue despite their current focus on fighting the military junta. In the past, discussions about Myanmar's future have often centered on how to build a political structure that represents all ethnic groups. To date, efforts to establish a democratic federal constitution are still ongoing, although the process has been extremely difficult. Some groups have withdrawn from the negotiations, while others refuse to take part. (Kramer, 2020)

The State of Civil Society and also the victims of the Myanmar Civil War

Following a military coup in 2021 that overthrew an elected government and put a halt to modest democratic beginnings, Myanmar has been in instability. Due to the fighting,

Myanmar is now among the nations with the highest concentration of landmines worldwide. In recent years, established armed ethnic groups have teamed up with armed civilian resistance to take on the military. Following their failures on the battlefield during a huge attack launched by rebel groups in October, the junta leadership is facing unprecedented pressure.

With so many armed groups in Myanmar and so many conflicts, there is no doubt that innocent people are also affected by these conflicts. The number of civilians, including children, killed or maimed by landmines and explosives in Myanmar doubled last year to 1,052, the UN Children's agency said on Thursday. This comes as conflict continues in the impoverished country. Landmines and explosive remnants of war caused a 270% jump in casualties by 2023, including 188 killed and 864 injured, UNICEF said. That's up from 390 victims in 2022. Children made up more than 20% of all landmine victims last year, it added (UNICEF, 2023).

Only Naypyitaw has so far been spared from conflict, but this is unlikely to last as ethnic groups begin to shift their focus to the capital and the military's central command. The three areas that saw the heaviest fighting also saw many deaths and injuries from landmines. There were 372 casualties in Sagaing in the northwest, where the shadow Government of National Unity and armed ethnic groups have united to fight the military. Shan state in the northeast recorded 125 fatalities. On October 27, three ethnic groups launched a major offensive in the region, seizing key towns along the border with China (Router, 2024).

Landmines have a detrimental effect on the process of reintegrating communities. For many of the impacted countries, the existence of mining is regarded as a serious socioeconomic and environmental issue. In addition to clearance operations, mine action is a multifaceted, all-encompassing operation that prioritizes people and communities and how they are impacted by landmine contamination. Between the humanitarian emergency and the relief phase, there will be a change in focus from immediate humanitarian aid to long-term development and reconstruction (Heshmati & Khayyat, 2013).

Even though social and health services in mine-affected nations are frequently destroyed by poverty and conflict, these nations are ultimately accountable for providing treatment to mine victims. The Ottawa Convention acknowledges the difficulties states affected by mines have in providing victim care. The Protocol on Explosive Remnants of War emphasizes this similar duty. (Mar Lar Soe, 2019)

Ruling on the Explosion of War Remnants

Anti-personnel mines are defined as mines that are "designed to be detonated by the presence, proximity, or contact with a person and will disable, injure, or kill one or more persons." In other words, anti-personnel mines cannot distinguish between soldiers and civilians. Even non-durable anti-personnel mines (referred to as "smart" mines) still indiscriminately harm civilians when activated (ICRC, 2020). If victims are not

immediately killed by mines, they will be severely injured and face lifelong disability. Long after a war ends, landmines can continue to kill and maim, while disrupting access to essential services, rendering large areas of valuable land unusable, disrupting food production, and destroying livelihoods, sometimes for decades.

In 1980 Convention On Certain Conventional Weapons (Ccw) Protocol II: Mines, Booby Traps, And Other Devices Some general rules for mine planting and others are described: The following acts are prohibited: using mines, booby traps and other devices if they are of a nature to cause unnecessary suffering or superfluous injury (Art. 3(3)) using these weapons if they are designed to explode when detected by mine-detection equipment (Art. 3(5)) directing these weapons against civilians or civilian objects (Art. 3(7)) using these weapons indiscriminately (Art. 3(8)).

Parties to the conflict which use mines, booby traps and other devices must: remove them following the end of active hostilities (Arts 3(2) and 10) take all feasible precautions to protect civilians from their effects (Art. 3(10)) give effective advance warning of any emplacement of these weapons that may affect the civilian population (Art. 3(11)) maintain records on the locations of such weapons (Art. 9) take measures to protect missions of the United Nations, the ICRC and other humanitarian organizations against the effects of these weapons (Art. 12). (ADVISORY SERVICE ON IHL, 2021) Explosive Remnant War (ERW) refers to both explosive ordnance left on the battlefield (abandoned ordnance) and explosive weapons that have been deployed or fired but did not explode as intended. Artillery shells, mortar shells, hand grenades, submunitions, and other like weapons fall under this category. Weapons covered by the modified Protocol II (mines, booby traps, and other devices) are not protected by the Protocol.

In the 1980 Convention of CCW, it is also explained about what must be done for each party involved in Explosive Remnant War (ERW), which is contained in Protocol V: Explosive of Remnant War with the following contents: The Protocol requires each party to an armed conflict to: mark and clear ERW in territory they control after a conflict (Art. 3(2)) provide technical, material and financial assistance to facilitate the removal of ERW that result from its operations and which are located in areas it does not control. This assistance can be provided directly to the party in control of the territory or through a third party such as the UN, international agencies or non-governmental organizations (Art. 3(1)) take all feasible precautions to protect civilians from the effects of ERW. This may include the fencing and monitoring of territory affected by ERW, and the provision of warnings and risk education (Art. 5) record information on the explosive ordnance employed by its armed forces and, after the end of active hostilities, share that information with the other parties to the conflict and organizations engaged in ERW clearance or programmes to warn civilians of the dangers of these devices (Art. 4).(ADVISORY SERVICE ON IHL, 2021) All States Parties with the potential to do so shall support ERW marking and clearance, risk education, treatment, rehabilitation, and socio-economic reintegration of ERW victims, in addition to the duties placed on parties to the war. Although this Protocol's duties are not absolute, it does offer a well-defined

structure that has been agreed upon to help in a prompt reaction to ERW. This can help address the issue even more if done so in a sincere manner (IHL, 1997).

States that were already impacted by ERW when they became parties are granted the "right to seek and receive assistance" from other state parties to manage their ERW issues, even though the Protocol's regulations only apply to disputes that arise after it enters into force. In addition, able state parties have a duty to support ERW-affected state parties in lessening the threat that these weapons offer.(Bourne, 2012)

The ICRC's role in responding to Explosive Remnants of War Victims

Fields of combat are typically left covered in explosive remains after hostilities cease. A large portion of this debris is still dangerous, particularly the weapons caches that fighters have left behind and the explosive munitions that have been launched but did not explode as planned. The existence of these weapons poses a constant threat to communities and civilians in nations devastated by conflict. As a result of unintentional interaction with explosive relics of war, numerous innocent bystanders have lost their lives or limbs. These weapons pose a threat to people's livelihoods and can impede efforts at rebuilding. Until the weapons are removed, homes, hospitals, and schools cannot be rebuilt, and contaminated soil cannot be used for farming.

Over 80 countries are affected by the millions of explosive leftovers of war that are still buried beneath the surface of the earth. This is a problem that some nations have been addressing for decades. Poland, for instance, has removed almost 100 million explosives from the two World Wars. Since the Indochina War ended in 1975, tens of millions of explosive remnants of war have remained in Laos and need to be cleaned. Bomb remnants from more recent battles, such those in Afghanistan, Iraq, and Sudan, have also left behind significant volumes of debris (Buscemi, 2022).

Landmines and other explosive war leftovers claim lives in Myanmar. Each year hundreds of individuals are killed or injured. 160 people impacted by landmine and other explosive events are receiving assistance from the ICRC. These hazards are only going to get worse because of the ongoing turmoil in Myanmar. Explosive remains persist even after combat has finished, posing a risk to human life (ICRC, 2024). U Maung Thein Htay from Ann Township, Rakhine State, is one of the numerous people whose lives have been ruined by landmine injuries and is an example of the ICRC's help. He set out in the beginning of 2021 to gather the supplies needed to create custom-made hats and fans. He heard a thunderous explosion and stepped on something not far from the roadway. (ICRC, 2022b) In October 2021, U Maung Thein Htay arrived at the ICRC physical rehabilitation workshop in Sittwe to get a new prosthetic leg and undergo physiotherapy.

The ICRC and The Leprosy Mission Myanmar (TLMM) collaborated to improve rehabilitation services in Rakhine State by offering mobile prosthetic and orthotic services, particularly for people with physical disabilities, the elderly, children, and

pregnant women living in communities that have been uprooted by armed conflict. These services include medical referrals, guidance, and assistance for people in need of wheelchairs, mobility aids, and prosthetic limbs.

Furthermore, through 320 sessions held in accordance with the International Mine Action Standards and Guidelines, 16,229 persons had gained a better understanding of safe behaviors and the risks associated with mines and other explosive hazards by 2022. In addition, the ICRC helped fifty landmine victims receive medical attention, examinations, and prosthetic limbs. In addition, 114 Red Cross volunteers and 11 community volunteers received training on risk awareness and safer conduct as trainers. Additionally, the ICRC arranged a two-day workshop on humanitarian mine action in Myitkyina, which was attended by sixty members of several public agencies (ICRC, 2022a).

In 2023, a total of 65,949 people have gained a deeper understanding of explosives risks and information on how to behave safely through 1,377 awareness sessions. 98 community members and 210 Red Cross volunteers have been trained as trainers to raise awareness about risks and encourage safer behavior. 15 awareness campaigns have been held to highlight the risks associated with unexploded ordnance and promote safe behavior. ICRC also provide 11 mini-libraries were established in Pinlaung and Hsihseng townships in southern Shan and in Lashio township in northern Shan. Messages on risk awareness and safer behavior were delivered through two radio channels in Kachin and Chin states. A total of 79,573 copies of risk awareness materials were also provided as part of the relief information (ICRC, 2024).

CONCLUSION

The ICRC has carried out its humanitarian activities and has also assisted some ERW victims with medical assistance as well as explanations to prevent weapon contamination. As ridding a country of these weapons can take years, measures such as marking, fencing, and risk education for local communities need to be taken to protect civilians. States should also assist in the treatment and rehabilitation of victims if they are able to do so. The Protocol mandates that parties to a conflict keep a record of the explosives they use during the war and communicate it with other parties and weapons clearance organizations after the fighting has stopped in order to support these actions. Information gaps frequently cause earlier attempts to handle explosive relics of conflict to be delayed. The Protocol is a noteworthy advancement that offers a crucial structure to expedite prompt action in regions where explosive leftovers of warfare persist. Civilian safety will be considerably improved if all governments adhere to the Protocol and implement its provisions in full. By making the public aware of explosive remnants of war and educating a group about the protocols, the ICRC creates a sense of security in this way.

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