

A person wearing a helmet and protective vest is kneeling on a dry, rocky hillside, working with mine-clearing equipment. The background shows a steep, barren slope with sparse, dead trees and a winding road in the distance.

**Anti-personnel Mine Ban Convention
Implementation**
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Recommendations from an operational perspective:

- Ensure robust priority setting by multi-ministerial oversight over annual mine action planning mechanisms.
- Ensure “duty of care” for staff and affected communities.
- Ensure dignified recovery and handling of mortal human remains in situations with suspect weapon contamination.





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Legal basis of the Convention

Based on fundamental IHL principles and rules

- The rights of the parties to a conflict are not unlimited
- Weapons of a nature to cause superfluous injury or unnecessary suffering should not be used.
- Distinction must be made at all times between civilians and combatants



General Prohibitions

- Anti-Personnel Mine Ban Convention (APMBC): 1997

General Prohibitions:

- never under any circumstances use, develop, produce, otherwise acquire, stockpile, retain or transfer to anyone, directly or indirectly
- or assist, encourage or induce anyone to do so



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Treaty obligations

- Destruction of existing stockpiles
- Clearance of mined areas/CM remnants
- Assistance to survivors
- Annual transparency reporting
- Measures to prevent / suppress violations
- Universalization



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National Implementation Measures (Art. 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 this Convention undertaken by persons or on territory under its jurisdiction or control.** "



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Elements to consider in national implementation legislation

- Penal sanctions
exceptions (art. 3 APMBC)
- Definitions
- Destruction
- Clearance
- Victim Assistance
- Reporting
- Right to seek assistance from other States
- Clarification procedure: fact-finding missions



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Useful tools developed by ICRC

- Model law
- Factsheet
- Checklist
- Information kit



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Prohibited conduct

- Does your legal framework prohibit your nationals or other persons on territory within your jurisdiction or under your control from undertaking, in connection with anti-personnel mines, any of the following activities?
- Using
- Developing or producing
- Acquiring
- Possessing, retaining or stockpiling
- Transferring
- Assisting, encouraging or inducing, in any way, anyone to engage in any of the activities listed above
- *(Model Law, Section 3)*

- *Do these have offences and penalties attached to them?*



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Penal sanctions

	Does your legislation prohibit and provide punishment for these violations? (Art. 9)*	Is there a prohibition for <i>assisting, encouraging and inducing</i> these violations? (Art. 1 c and Art. 9)*
Use (Art. 1 a)		
Acquisition (Art. 1 b)		
Stockpiling (Art. 1 b)		
Retention (Art. 1 b)		
Transfer , including the physical movement of AP mines into or from national territory, and the transfer of title to and control over the mines (Art. 1 b, and Art. 2(4))		
Development (Art. 1 b)		
Production (Art. 1 b)		



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Definitions

- Does the legislation have the correct definitions from article 2?



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Exceptions

- Does your law have exceptions to allow for destruction, training etc *article 3*?
- Are personnel who engage in clearance duly authorised?



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Destruction

- Does your legal/regulatory/administrative framework
 - ▶ require the destruction of all stockpiled anti-personnel mines other than those retained or transferred for permitted purposes (Articles 3 and 4)?
 - ▶ establish how your State will ensure the clearance of all anti-personnel mines in mined areas within its jurisdiction or under its control, and how it will seek extensions when necessary (Article 5)?
 - ▶ provide for marking and monitoring of mined areas and for measures to protect civilians pending clearance (Article 5)?



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Other measures

- Article 7 report
- Designated authority
- Fact-finding mission facilitation
- Victim assistance



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When implementing the Convention, each State may choose from:

1. Stand-alone legislation;
2. Amendment to existing legislation; or
3. Combination of 1 and 2

Types of legislation to consider

- Criminal Code
 - ▶ But consider where victims assistance and other issues can be placed too
- Mine Action Law
 - ▶ Ensure criminal sanctions are also included
- Firearms and explosives law
 - ▶ Ensure correct definitions
 - ▶ crimes
- New legislation



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ICRC support

- Regional meetings
- Bilateral drafting workshops
- Bilateral dialogue
- Model Law
- Regional legal advisers network



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Thank you for your attention.

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