



Commentaries on Arms Control Treaties, Vol. 1, The Convention on the Prohibition of the Use, Stockpiling, Production, and Transfer of Anti-Personnel Mines and on their Destruction, 2nd ed.
by Stuart Maslen. Oxford Commentaries on International Law. New York: Oxford University Press, 2005. 704 pages. \$190.00 hardback/\$65.00 paperback

reviewed by Dr. J. Peter Pham [James Madison University]

Demining programs have evolved considerably since the first program for humanitarian demining, the Mine Action Programme for Afghanistan, began in 1988. Likewise, the legal bases for dealing with the problem of landmines have developed substantially from the minimalist 1980 Protocol II to the *Convention on the Prohibition or Restriction on the Use of Certain Conventional Weapons Which May be Deemed to be Excessively Injurious or to have Indiscriminate Effects*, which entered into force in 1983, to the *Convention on the Prohibition of the Use, Stockpiling, Production, and Transfer of Anti-Personnel Mines and on Their Destruction* (also known as the Anti-personnel Mine Ban Convention or the Ottawa Convention), which was adopted September 18, 1997, and entered into force March 1, 1999.

The Ottawa Convention opted for a more radical approach to humanitarian law than previous agreements, bringing the disarmament element in with the total prohibition of anti-personnel mines. While the objective of the Convention is clear, some of its core provisions can be subject to ambiguity. For example, Article 1 stipulates a State Party “undertakes never under any circumstances ... to use anti-personnel mines.” The use of a weapon is typically a single action where no distinction can be made between the actor and the beneficiary of the action (e.g., pulling the trigger on a gun). However, with anti-personnel mines, the weapon is designed with a time-lag: one person may lay the mine, another may use it tactically. Hence, would a military unit that moves into an area where mines were laid and avails itself of their placement for its defensive perimeter violate the prohibition on use if the unit in question was that of a State Party?

For not-so-insignificant questions such as this one, we are fortunate to have Stuart Maslen’s contribution to the prestigious Oxford Commentaries on International Law series, edited by Professors Philip Alston of New York University and Vaughan Lowe of Oxford University. This work, the first volume of a projected line of commentaries on arms-control treaties, offers a comprehensive article-by-article interpretation of the Mine Ban Convention, as well as a thorough overview of the Convention as a whole and the unusual fast-track negotiation—the “Ottawa Process”—that led to its adoption. Likewise, very useful is the inclusion of a long introduction describing the development and use of anti-personnel mines, assessing their military utility and reviewing the historical and legal antecedents to the Convention.

While jurists will undoubtedly quibble at the margins with particulars about this paragraph or that parenthetical, Maslen knows his material well—he was a member of the UNICEF delegation to the First Review Conference on the 1980 Convention on Certain Conventional Weapons (1995–1996), as well as a member of the International Committee of the Red Cross delegation to the Oslo Diplomatic Conference, which adopted the AP Mine Ban Convention—and is clearly passionate about the subject

(he is donating all royalties from the volume to a nongovernmental organization that provides financial and technical support to local organizations rehabilitating victims in mine-affected countries). Although it is neither an easy read (but not a difficult one either) nor an inexpensive book, this work deserves an honored place on the shelf of every scholar of international humanitarian law as well as that of mine-action centers worldwide. ♦



Dr. J. Peter Pham is Director of the Nelson Institute for International and Public Affairs at James Madison University. He has written nearly 200 essays and reviews and is the author, editor or translator of over a dozen books. Among his recent publications are *Liberia: Portrait of a Failed State* (Reed Press, 2004) and *Child Soldiers, Adult Interests: The Global Dimensions of the Sierra Leonean Tragedy* (Nova Publishers, 2005). He teaches the international law modules in the United Nations Development Programme’s Senior Managers Course organized by the JMU Mine Action Information Center.

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