



ماعت للسلام والتنمية وحقوق الإنسان
Maat For Peace, Development, and Human Rights



Cluster Munitions

Between Prohibition and Violations of Use

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Introduction

Determining the legality of weapons in terms of their use involves a delicate balance between military necessity and humanitarian considerations, as outlined in the Petersburg Declaration over a century and a half ago. This principle is encapsulated in three primary reasons for their prohibition: weapons that cause unnecessary suffering or injury, weapons that have significant and long-lasting environmental damage, warranting their prohibition under international law, and weapons with indiscriminate effects. According to Article 51, paragraph 4, of the Additional Protocol to the Geneva Conventions of August 12, 1949, weapons that indiscriminately target military or civilian entities are prohibited.

The objection to the usage of cluster munitions in warfare lies in their indiscriminate nature, as they fail to differentiate between civilians and combatants. Their use has resulted in the deaths of countless civilians due to their inability to distinguish targets accurately. Additionally, cluster munitions leave behind a substantial amount of unexploded ordnance, posing a random threat to civilian lives. The international community grew increasingly concerned about the use of cluster munitions following Israel's extensive deployment of these weapons during its 2006 attack on Lebanon. The United Nations Mine Action Coordination Center estimated that Israel released approximately four million cluster munitions in 962 separate strikes. Consequently, the international community joined forces to establish regulations preventing the use of cluster munitions in armed conflicts and the destruction of existing stockpiles. The International Convention on Cluster Munitions was established in May 2008 with the objective of banning the use of cluster munitions in armed conflicts and eliminating stockpiles to prevent their future use.

Given the dangers associated with these weapons and Maat's commitment to disarmament, particularly regarding indiscriminate weapons' impact on civilians, **Maat for Peace, Development, and Human Rights** presents this paper, which provides an analysis of the Convention Banning Cluster Munitions. It highlights the crucial obligations imposed on countries and examines the implementation of the Convention, while also presenting the foundation's perspective on the necessity of prohibiting these munitions.

First: Legal Framework for Banning Cluster Munitions

Cluster munitions are inherently indiscriminate weapons that cause unimaginable harm to civilian lives. Their use is categorically forbidden under customary international humanitarian law. Originally employed during World War II, a significant portion of current cluster munition stockpiles were designed for use during the Cold War. They are primarily intended to target multiple dispersed military objectives across a wide area, such as tank formations or infantry units, while also inflicting casualties on combatants. As per Article 2 of the Convention on Cluster Munitions, cluster munitions are defined as Conventional munitions designed to scatter or release numerous explosive submunitions, each weighing less than 20 kilograms.¹

Hence, cluster munitions are weapons that consist of a container that opens in mid-air, dispersing a large number of small bombs or explosive submunitions over an extensive area. The number of submunitions can vary from a few dozen to over 600, depending on the model. Cluster munitions can be delivered via aircraft, artillery, or missiles. Most submunitions are designed to explode upon impact. Furthermore, they are typically free-falling and lack individual targeting capabilities.²

Cluster munitions possess several characteristics that make them highly problematic:

- ☛ **Indiscriminate Effects**: Cluster munitions are area weapons, dispersing small bombs over a wide region. Consequently, it becomes challenging to limit their impact to specific military targets, thereby increasing the risks posed to civilians.
- ☛ **Unexploded Ordnance**: Cluster munitions have a high rate of failure, with many submunitions failing to detonate upon impact. These unexploded bombs can remain active for extended periods, effectively transforming into dangerous landmines, posing a continuous threat.
- ☛ **Humanitarian Impact**: The use of cluster munitions has resulted in significant civilian casualties. Children, in particular, are vulnerable to the dangers of unexploded submunitions due to their curiosity and limited awareness of the risks. These risks hinder the safe return of displaced individuals and impede post-conflict economic activities.

¹ راجع المادة 2 من اتفاقية بشأن الذخائر العنقودية، الرابط، <http://hrlibrary.umn.edu/arabic/CCM.html>

² الذخائر العنقودية ما هي وما المشكلة، اللجنة الدولية للصليب الأحمر، الرابط، <https://www.icrc.org/ar/doc/resources/documents/legal-fact-sheet/cluster-munitions-factsheet-230710.htm>

- ☛ **Infrastructure Damage**: Cluster munitions can cause severe damage to infrastructure, including buildings, roads, and facilities, due to their widespread dispersal pattern and explosive power.³

Regarding the prohibition of cluster munitions in international law, any state that is not a party to the Convention on the Prohibition of Cluster Munitions cannot evade responsibility for their use by claiming non-membership in the Convention. States remain obligated to adhere to the rules of international custom, even if they are not bound by specific international agreements. International humanitarian law encompasses a set of customary rules that prohibit the use of indiscriminate weapons, including bombs and cluster munitions. These rules stipulate:

- **Principle of Distinction between Civilians and Combatants**

According to the definition of cluster munitions, they can be classified as weapons with indiscriminate effects, as their impact cannot be limited to international humanitarian law. The latter prohibits the use of weapons with indiscriminate effects, which harm combatants and non-combatants without distinction. Such weapons also target civilian objects and military targets indiscriminately, with uncontrollable consequences. This prohibition is embodied in Article 48 of the First Additional Protocol of 1977, which requires contracting parties to differentiate between the civilian population and combatants, as well as between civilian objects and military objectives. Operations must then be directed exclusively against military objectives to ensure respect for and protection of the civilian population and civilian objects. Additionally, Article 51, paragraphs 4 and 5 of the same Protocol, confirms the prohibition of indiscriminate attacks and clarifies that the following attacks are considered indiscriminate:

³ إنفاذ الهجوم المضاد للقنابل العنقودية والبحث في دور في الميدان الأوكراني، المرصد المصري، 10 يوليو 2023، الرابط، <https://marsad.ecss.com.eg/78413/>

Attacks are considered random if they are:

- a) Not directed at a specific military target.
- b) Don't use a method or means of combat that cannot be directed at a specific military objective.
- c) Those that use a method or means of combat which effects cannot be limited as required by this Protocol, and therefore would, in each such case, strike military objectives and civilian persons or civilian objects without discrimination.

It is also considered an indiscriminate attack:

- a) Bombing attacks that treat multiple clearly separated and distinct military targets located within a city, town, village, or other area with a concentration of civilians or civilian objects as a single military target.
- b) Attacks that are anticipated to cause loss of civilian life, injury to civilians, or damage to civilian objects, or a combination of these losses and damages that outweigh the expected military advantage.⁴

When applied to cluster munitions, it becomes evident that they violate the principle of distinguishing between civilians and combatants. Cluster munitions consist of a canister that breaks open, releasing numerous small bombs into the air. Many of these bombs fail to explode and become buried in the ground, acting as mines that may detonate years later. Studies have shown that approximately 10% to 30% of these munitions fail to explode, transforming into hazardous remnants that pose a long-lasting threat to civilians.

According to the definition of cluster munitions, they can be classified as weapons with indiscriminate effects, as their effects cannot be limited as required by international humanitarian law. The latter prohibits the use of weapons with indiscriminate effects, as they strike combatants and non-combatants alike, without distinction between them. They also strike civilian objects and military targets, and their effects cannot be controlled. This prohibition was embodied in Article 48 of the First Additional Protocol of 1977, which required contracting parties to distinguish between the civilian population and combatants and between civilian objects and military objectives, and then direct their operations exclusively against military objectives, in order to ensure respect and protection of the civilian population and civilian objects. . Article 51, in

⁴ راجع المواد المذكورة من البروتوكول الإضافي الأول لاتفاقية جنيف 1977 على الرابط، <https://www.icrc.org/ar/resources/documents/treaty/protocol-i-additional-to-the-geneva-conventions>

paragraphs 4 and 5 of the same Protocol, also affirmed the prohibition of indiscriminate attacks and clarified that attacks are considered indiscriminate: -

Attacks are considered random if they are:

- **Principle of Proportionality**

Cluster munitions pose a significant threat to civilians and civilian objects due to their inability to be directed at specific military targets. A large portion of these munitions fails to explode upon deployment, remaining active for extended periods and endangering civilian lives. Consequently, the use of cluster munitions violates the principle of proportionality. Military commanders must anticipate the return of civilians to their homes, and the presence of unexploded bombs poses a serious risk to their safety. Therefore, when assessing proportionality, the current and long-term damage caused by cluster munitions must be taken into consideration. These munitions disperse numerous unexploded bombs that pose an ongoing threat to civilians, especially children. Reports have shown a significant number of civilian injuries resulting from the explosion of these weapons after the conclusion of military operations.

Hence, the use of cluster munitions to target legitimate military objectives does not legitimize their use, as they cause harm to civilians and civilian objects that outweigh any military advantage sought. This position aligns with the stance adopted by the Special Criminal Court for the Former Yugoslavia, which considers attacks on legitimate military targets as indiscriminate if they employ indiscriminate means or methods of war or if they cause harm to civilians.⁵ Consequently, when military necessity calls for the use of a specific weapon, conflicting states must adhere to the provisions of international humanitarian law, particularly the First Additional Protocol of 1977, and relevant international agreements pertaining to weapons. Furthermore, conflicting parties must uphold the principle of proportionality, which seeks to strike a balance between military necessity and humanitarian considerations. It is impermissible to attack even a legitimate target if the resulting civilian losses are disproportionate to the specific military gain achieved by the attack. The use of cluster munitions cannot be justified by military necessity, as these weapons extend beyond the legal objective of warfare, which is to incapacitate the largest number of combatants, and instead cause long-term harm to both civilians and fighters, as well

⁵ تمارا برو، الذخائر العنقودية واقع مؤلم ومستقبل خطير، الحوار المتمدن، يناير 2018، الرابط، <https://www.ahewar.org/debat/show.art.asp?aid=586051>

as environmental damage. Thus, the effects of these weapons persist even after military operations have ceased.

1) Convention on Cluster Munitions (CCM)

In response to the deaths, injuries, and suffering inflicted on civilians by cluster munitions, 107 countries engaged in negotiations and held multiple conferences starting in Oslo in February 2007, culminating in Dublin in 2008, resulting in the adoption of the Convention on Cluster Munitions on May 30, 2008. The Convention was opened for signature on December 3, 2008, and entered into force on August 1, 2010.⁶ This Convention represents a significant addition to international humanitarian law, establishing new regulations to prevent the future use of cluster munitions and address existing humanitarian issues associated with these weapons. Importantly, the Convention includes specific provisions aimed at meeting the needs of victims and affected communities. With the adoption and implementation of the Convention on Cluster Munitions, international humanitarian law has established a comprehensive framework to prevent and alleviate the suffering of civilians caused by weapons that continue to claim lives. Together with the 1997 Mine Ban Convention and the 2003 Protocol on Explosive Remnants of War, the 2008 Cluster Munitions Convention forms a powerful response to the humanitarian consequences of unexploded ordnance and abandoned objects, offering hope for a future in which societies can live free from the threat of these weapons.⁷

CCM Imposed a Number of Obligations on States, including:

- In accordance with Article 1 of the Convention, states shall not use cluster munitions.
- Not to develop, produce, or otherwise possess, store, retain, or transfer cluster munitions to any person, directly or indirectly.
- Not to assist, encourage or induce any person to carry out any activity prohibited to a State Party under this agreement.
- Not to allow, under any circumstances, armed groups in a State Party to carry out any activity prohibited by the Convention.

⁶ Cluster Muniton Monitor 2022, Cluster Muniton Coalition, 25 August 2022, link http://www.icbl.org/media/3348469/CMM2022_Embargoed-copy.pdf

⁷ اتفاقية الذخائر العنقودية: معاهدة جديدة ترمي إلى إنهاء المعاناة التي تسببها الذخائر العنقودية، اللجنة الدولية للصليب الأحمر، الرابط، <https://www.icrc.org/ar/doc/resources/documents/legal-fact-sheet/cluster-munition-legal-factsheet-230710.htm>

2) Convention on Cluster Munitions 2008

The Cluster Munitions Convention requires its party states to encourage other states to ratify, accept, approve, or accede to it, with the aim of attracting all states to join. Accordingly, a United Nations General Assembly resolution to promote the Convention was adopted in December 2021 by 146 states, including 36 countries that are not signatories to the Convention. Russia was the only country that voted against the resolution⁸. By August 2023, the agreement had gained the support of 112 party states, with South Sudan officially joining on August 3, 2023⁹. In the table below is the position of the states on ratifying the treaty.

Position of States on ratification of the Treaty according to the latest update (August 2023)¹⁰

Continent	No. of States Parties (112)	No. of signatory countries 12	No. of non-party states 73
Africa	36	8	10
Asia and Oceania	17	1 (Indonesia)	41
Europe	34	1 (Cyprus)	14
Americas	25	2 (Haiti and Jamaica)	8

As for the Arab countries, 7 countries have ratified the Convention (Comoros, Lebanon, Tunisia, Iraq, Mauritania, Somalia, and Palestine), while Djibouti joined them. The remaining Arab countries are not yet parties to the Convention.

It is also noted that the vast majority of signatory countries have implemented their pledge to ratify, although it is clear that the pace of ratification has slowed significantly. It seems that the majority of signatories have not referred requests to ratify the Convention to their parliaments for consideration and approval. Cyprus remains the last EU member state to sign the agreement but has not ratified it after the Cyprus Parliament suspended ratification in 2013.

2.1 Destruction of Stocks

⁸ Cluster Muniton Monitor 2022, Cluster Muniton Coalition, 25 August 2022, link http://www.icbl.org/media/3348469/CMM2022_Embargoed-copy.pdf

⁹ South Sudan Joins Convention on Cluster Munitions, , Cluster Muniton Coalition, 07 August 2023, link,

<http://www.stopclustermunitions.org/en-gb/media/news/2023/south-sudan-joins-convention-on-cluster-munitions.aspx>

¹⁰ يمكن الرجوع إلى موقع الاتفاقية على الرابط،

https://www.clusterconvention.org/files/states_parties/CCM%20Universalization%20Status%20by%20Region.pdf

Since the adoption of the Convention in 2008, States Parties have collectively destroyed 99% of the total global stockpile of cluster munitions they declared, destroying approximately 1.5 million cluster munitions and 178 million submunitions.

- States Parties Bulgaria, Peru and Slovakia destroyed at least 1,658 stored cluster munitions and 46,733 submunitions during 2021 and the first half of 2022.
- Only 11 countries retain live cluster munitions for permitted research and training purposes, of which Belgium having the largest number¹¹.

2.2 Removal of Cluster Munitions Remnants

- In 2021, States Parties reported the clearance of approximately 61 square kilometers of land contaminated by cluster munitions and the destruction of more than 81,000 submunitions. This is slightly less than the 63.4 square kilometers reported to have been cleared and corresponds to the 80,900 submunitions destroyed in 2020.
- Iraq and Somalia are the only ones working to meet original demining deadlines, but they are far from achieving them. The number of States Parties that are on track to achieve their obligations to cleanse all contaminated areas is decreasing.
- Three States Parties requested an extension of the clearance deadlines in 2022: Bosnia and Herzegovina have requested until 2023, Chad until 2024, and Chile until 2026. These requests will be reviewed during the Tenth Meeting of States Parties¹².

The 2008 Convention on Cluster Munitions is one of the most important documents of international humanitarian law aimed at providing protection for civilians. It establishes new rules to ensure that cluster munitions are no longer used and that existing humanitarian problems associated with these weapons are addressed. It also contains specific provisions aimed at meeting the needs of victims and affected communities. The devastating impact of cluster munitions, particularly on civilians, has sparked a growing opposition to their use during and after armed conflicts. The Convention on the Ban of Cluster Munitions was adopted, which prohibited the use, production, storage, and transfer of cluster munitions.

Second: Dangerous effects of the use of cluster munitions

¹¹ Cluster Munion Monitor 2022, Cluster Munion Coalition, 25 August 2022, link http://www.icbl.org/media/3348469/CMM2022_Embargoed-copy.pdf

¹² - Cluster Munion Monitor 2022, Cluster Munion Coalition, 25 August 2022, link http://www.icbl.org/media/3348469/CMM2022_Embargoed-copy.pdf

Cluster munitions were prohibited because of their extensive and indiscriminate impact on civilians and the long-term hazards they pose. These munitions usually burst in the air, scattering dozens or even hundreds of submunitions over an area the size of a football field. Most of these cluster submunitions do not explode upon impact, leaving many unexploded bomblets that serve as landmines¹³.

The danger of cluster munitions lies in the fact that they remain active even after the end of the conflict. Many of these munitions do not explode upon impact, thus threatening civilians if they are not removed and destroyed. Manufacturers and the military have indicated that the failure rates of cluster munitions to explode range from 5 to 20% under test conditions. The real failure rates during combat are much higher. Unexploded ordnance is usually found in areas that witnessed fighting or in military shooting ranges. It can also be found inside and outside buildings, where it may be buried underground, among rubble, or hidden inside collapsed walls. This explosion leads to:

- **Violation of the right to a safe life**

The explosion of a cluster munition can lead to the death of the victim due to the severity of the explosion. Survivors of cluster munition explosions often experience severe injuries caused by bombing and shelling, which frequently result in amputations and sometimes even loss of vision. Alongside the physical pain, individuals who have lost a body part suffer from psychological anguish due to their diminished independence in meeting their own needs and participating in social and economic activities. Moreover, they require long-term physical therapy, leading to depression being a prevalent symptom during the post-injury stage. It is worth noting that civilians comprise a significant majority (around 98%) of the victims of unexploded cluster munitions.

- **Violation of economic and social rights**

The impact of cluster munitions extends beyond individual suffering, as the state whose land is contaminated with these munitions also suffers. The state is unable to use its land and natural resources efficiently, leading to a sluggish process of economic and social development. Additionally, the state bears considerable financial costs associated with treating those affected by cluster munitions, rehabilitating them, and

¹³ تزايد استخدام الذخائر العنقودية الفتاكة على الرغم من خفض مخزونها، الأمم المتحدة، نوفمبر 2020، الرابط، <https://news.un.org/ar/story/2020/11/1066532>

integrating them back into society. It also bears a large financial cost if it decides to clear the lands of unexploded cluster munitions, as the cost of removing each unexploded cluster munition, taking into account minimum safety measures, is between \$2,000 and \$3,000, depending on the nature of the land.

Indeed, cluster munitions have a detrimental impact on the environment, causing soil pollution and rendering it unproductive. The situation becomes even more complex as these munitions can be displaced from their original locations through natural factors like floods and mudslides, resulting in contamination of previously unaffected areas. The regions affected by these weapons experience significant population displacement, giving rise to further challenges related to the displaced individuals and the severe social, economic, and psychological problems that result from that¹⁴.

Third: Reality of actual use of cluster munitions

Since the adoption of the Convention Banning Cluster Munitions in 2008, cluster munitions have been used in many armed conflicts around the world, especially in the Arab region, where: -

- ☞ Russia used several types of cluster munitions in its 2008 conflict in Georgia, whether launched from the air or the ground, in a number of locations in the Gori district of Georgia. Georgia also used cluster munitions in the August 2008 conflict with Russia.
- ☞ Thailand also used it on Cambodian territory during a border conflict in February 2011, and in the same year, Gaddafi's forces also used it in Misrata.
- ☞ In February 2014, the United Nations Mine Action Service found new contamination with cluster munitions near the town of Bor on the road to Juba. In September 2014, South Sudan informed the Fifth Meeting of States Parties to the Convention that an investigation conducted jointly with UN officials had been unable to determine who used the weapon. Both South Sudan and Uganda denied using it.
- ☞ In 2014 and 2015 in Ukraine, cluster munitions were used by both sides of the conflict in January and February 2015. An Organization for Security and Co-operation in Europe (OSCE) mission documented the use of Cluster munitions by Ukrainian government forces in the city of Luhansk in late January 2015, while

14 - تمارا برو، الذخائر العنقودية واقع مؤلم ومستقبل خطير، الحوار المتمدن، يناير 2018، الرابط، <https://www.ahewar.org/debat/show.art.asp?aid=586051>

Ukrainian government forces had already used it in the city of Donetsk in October 2014. In August 2014, remnants of cluster munitions were documented in territory controlled by Ukrainian government forces and in territory controlled by armed rebels. As early as July 2014, evidence pointed to the use of cluster munitions.

- ☞ During 2021 and 2022 The 2022 Cluster Munition Monitor identified at least 149 new casualties from cluster munition remnants in 2021. This was the first time in a decade that no new casualties were reported from cluster munition attacks. This also represents a sharp decline from the annual totals in 2020 (360 victims) and 2019 (317 victims), respectively. However, these figures may not represent the actual global total casualties due to challenges related to casualty registration. Civilians therefore remain the main victims of cluster munitions both during attacks and after the end of conflict, with children being particularly vulnerable. In 2021, civilians constituted almost all the victims (97% of their cases were recorded), while the number of child victims was horrific, with 90 people killed and injured, their average age being 10 years. It is appalling that children constitute two-thirds of all recorded cluster munitions remnant victims documented in 2022.

The significant decline in casualties observed in 2021 has been overshadowed by the devastating number of cluster munitions attacks during the Russian invasion of Ukraine. Preliminary data indicate that there were at least 689 civilian casualties during cluster munitions attacks in the first half of 2022. This represents a 300% increase compared to the global total for 2021. Ukraine's indicative figures begin to replicate the high casualty rates seen during the years of major attacks in Syria.

2022 outcomes on the use of cluster munitions can be summarized as follows:

- ☞ There have been no reports or allegations of new use of cluster munitions by any State Party since the adoption of the Convention in 2008.
- ☞ Syria recorded the largest number of annual losses compared to any other country. However, the number of recorded casualties in Syria has declined, with 2021 seeing the lowest annual total recorded since 2012. The last reported use of cluster munitions in Syria was in March 2021, but the attacks could have gone unrecorded.
- ☞ At least 26 countries and three other territories remain contaminated with unexploded small munitions.

☞ Globally, 12 countries have completed the clearance of land contaminated by cluster munitions. However, none of them completed the process of eliminating cluster munitions last year¹⁵.

In 2023, the use of cluster munitions by the armed forces in Myanmar was monitored, as government reports documented the use of an apparently locally produced cluster bomb by the Myanmar armed forces in attacks in several parts of the country since 2021, including in early June 2023. Review of photographs showing remnants of cluster bombs used in attacks launched by the Myanmar Air Force in Chin, Kayah, Kayin and Shan states over the past 13 months (since July 2022). The most recent known cluster bomb attack by the Myanmar Air Force destroyed a school in Kedung village in Kaukarick Township, Kayin/Karen state on 6 June 2023. Another attack in Mindat Township in Chin state in April 2023 also involved the use of cluster bombs. Remnants of this type of cluster bomb were previously found in the same town after an air attack in July 2022 that injured 13 civilians. These attacks form part of an internal conflict whose intensity has escalated in recent months in both northwestern and southeastern Myanmar. As a consequence, there have been civilian casualties, extensive destruction of homes and other civilian structures, as well as the displacement of people. It is worth noting that all parties involved in the conflict have been widely using anti-personnel landmines¹⁶.

Fourth: Violating the ban on the use of cluster munitions in armed conflicts

1. Use of cluster munitions in the Russian-Ukrainian war

Except for the crude use of cluster munitions in the current Russian-Ukrainian war, during the period between August 2010 and July 2020, cluster munitions were deployed in seven countries that did not sign the global disarmament treaty banning the use of these munitions: Cambodia, Libya, South Sudan, Sudan, Syria, Ukraine, and Yemen. During 2020 alone, these munitions increased human losses, as the deaths of at least 360 registered victims were documented worldwide, either due to cluster munition attacks (142 victims) or the remnants of these weapons (218 victims), it was higher than recorded in 2019, when the number of victims was estimated at 319, compared to the number in 2018 at about 277 victims. The United Nations also

¹⁵ Cluster Munition Monitor 2022, Cluster Munition Coalition, 25 August 2022, link, http://the-monitor.org/media/3348497/CMM2022_Press-Release_EN.pdf

¹⁶

confirmed that child victims constitute half of them, approximately 44%, and a quarter are women and girls. Most victims from cluster munition attacks were documented in Azerbaijan (107 victims) during the armed conflict between them.¹⁷

From August 2021 to July 2022, according to the Landmine and Cluster Munitions Monitor, cluster munitions were used in Ukraine; it was the only country in the world where cluster munitions were being used as of August 2022¹. Russia used these bombs on a large scale since its military operation in Ukraine in February 2022; on the other hand, Ukraine has used them against Russia three times.¹⁸

On July 1, 2022, hundreds of cluster munition attacks by Russian forces have been documented, reported, or alleged to have occurred in at least ten of the 24 Ukrainian districts (or regions); Russia has not denied the use of cluster munitions in the conflict, it has sought to draw attention elsewhere, claiming that Ukrainian forces were responsible for several possible cluster munition attacks, on the other hand, Ukrainian forces used cluster munitions, including Uragan cluster missiles, in at least 3 locations that were under the control of the Russian armed forces or affiliated armed groups at the time, such use was reported in Husarevka, Kharkiv Oblast, on March 6 or 7, in Yenikiv, in Donetsk Oblast, on March 22, and in Kherson, on June 14. It is worth noting that Ukrainian government forces and Russian-backed anti-government forces previously used cluster munitions in eastern Ukraine from July 2014 until the ceasefire in February 2015; it has not denied the use of cluster munitions in the 2022 conflict but says the Ukrainian armed forces strictly adhere to the rules of international humanitarian law.¹⁹

As the war in Ukraine continues, the United States announced that it supplied Ukraine with widely banned cluster bombs as part of a new \$800 million security aid package that brings total US military aid to more than \$40 billion since the start of the Russian invasion of Ukraine in February 2022. According to military experts, cluster munitions could help Ukraine launch a counterattack against Russian forces holed up in trenches.² On the other hand, NATO rejected Ukraine's request to provide it with cluster munitions and phosphorus weapons. Notably, the use of these two types is a

¹⁷ Cluster Munition Coalition Condemns Myanmar's Use of Cluster Munitions, Cluster Munition Coalition, 31 August 2023, link, <http://www.stopclustermunitions.org/en-gb/media/news/2023/cluster-munition-coalition-condemns-myanmar%E2%80%99s-use-of-cluster-munitions.aspx>

¹⁸ ارتفاع عدد ضحايا القنابل العنقودية من المدنيين على الرغم من التقدم المحرز بشأن إزالتها، الأمم المتحدة، سبتمبر 2021، الرابط، <https://news.un.org/ar/story/2021/09/1083122>

¹⁹ Cluster Munition Monitor 2022, Cluster Munition Coalition, 25 August 2022, link http://www.icbl.org/media/3348469/CMM2022_Embargoed-copy.pdf

matter of great controversy, and cluster munitions are prohibited under international law since NATO does not recommend or supply this type of weapon.²⁰

It is worth noting that Washington's explicit declaration of supplying cluster bombs to Ukraine violates international humanitarian law and a war crime, as it violates several principles of this law, most notably the principle of discrimination. This type of munitions is not precisely directed and may strike areas outside the targeted military location. When used in or near populated areas, these weapons can pose a significant danger to civilians during the attack and in the immediate aftermath when people resume their normal activities. The above means that Washington will be involved with Ukraine in committing war crimes, so it loses the moral ground on which it claims to base its support for Ukraine. So, any attempt to wage a legal war against Russia will be of no practical value.²¹

Fifth: Maat's vision for the future of the Convention

1. Achieving universality of the Convention on Cluster Munitions (CCM)

CCM is a landmark achievement in the history of international humanitarian law and humanity, as it banned cluster munitions, saved the lives of thousands of civilians, and assisted the victims of this weapon because during the international negotiations to conclude the Convention on Cluster Munitions, states, and international organizations insisted on banning this weapon instead of restricting it, which indicates a strong desire by countries to ban this weapon, represented by 107 countries signing the Convention. However, the goals of the Convention are a world free of cluster munitions, have not been achieved. The Convention only includes countries that own 10 percent of the world's cluster munitions stockpile. Most large countries that possess and produce these munitions, such as the United States of America, Russia, India, Israel, and Pakistan, have not yet joined the Convention under the pretext of military necessities for cluster munitions. Therefore, we still have a lot of work to do to make this Convention universal. It still faces challenges despite the results achieved, most of the countries that manufacture and use cluster munitions remain outside its framework, such as the United States of America, Russia, China, and Israel; it also contains weaknesses that are as follows:

²⁰ ماذا نعرف عن القنابل العنقودية الفتاكة والمحرمة التي تسلمها الجيش الأوكراني من واشنطن، euronews، 14 يوليو 2023، الرابط، <https://arabic.euronews.com/2023/07/14/watch-what-we-know-about-cluster-bombs-munition>

²¹ Cluster Munition Monitor 2022, Cluster Munition Coalition, 25 August 2022, link http://www.icbl.org/media/3348469/CMM2022_Embargoed-copy.pdf

- Article (3, paragraph 6) allowed state parties to retain or transfer several cluster munitions for research and training purposes. But in return, it did not specify the maximum limit for this number, which makes countries keep more than necessary and use it for purposes other than permitted.
- The Convention did not contain provisions addressing the verification system and monitoring procedures and an organization establishment to monitor the validity of reports submitted by States Parties to the Secretary-General of the United Nations by Article 7 of the Convention.
- Article (21) allowed state parties to cooperate militarily with states not parties to the Convention and use cluster munitions.

Maat for Peace, Development and Human Rights emphasizes that achieving the universality of the Convention requires international organizations to play a role by educating non-party states about the benefits of joining the Convention and the harms resulting from using cluster munition; in addition, civil society organizations must also play a role in addressing the humanitarian impacts of mines, cluster munitions, and explosive remnants of war and educate countries about the importance of complying with the provisions of the Convention and joining it, so we recommend:

- Assist non-party states and find solutions to remove obstacles that prevent them from joining the Convention.
- States Parties, in partnership with international organizations and civil society organizations, should hold seminars with military leaders of countries to provide awareness of the importance of the Convention and abandon the use of cluster munitions in armed conflicts.
- Circumventing non-accession to the Convention under the pretext of military necessity for cluster munitions is illegal because it conflicts with the principles of international humanitarian law, especially the principle of distinction between civilians and combatants, and cluster munitions do not differentiate between civilians and combatants when they explode, as they are illegal weapons.
- The Arab countries most affected by the illegal use of cluster munitions must quickly join the Convention.

- States Parties also pledge to assist non-Party States and find solutions to overcome the obstacles that prevent them from joining the Convention so that they can join it.
- States Parties also raise awareness among non-parties of the importance and benefits of joining the Convention and achieving humanitarian goals by joining it, complying with its provisions, and destroying their stockpiles of cluster munitions.

Therefore, if the international community seeks to eliminate this weapon, the path is not easy, especially in light of the intransigence of the countries that own cluster munitions, which see them as a means of achieving victory and injuring the number of victims and the manufacturing countries that seek to conclude arms deals in exchange for oil.

2. International Cooperation and Assistance to Victims of Cluster Munitions

In compliance with Article 6 of the CCM, Maat believes that international cooperation and assistance are among the most important provisions of the Convention. It is an indispensable mechanism to implement the Convention on Cluster Munitions effectively. We encourage all state parties to ensure financial funding to assist countries' unfulfilled obligations, whether in transferring their stocks or otherwise, because some States Parties affected by cluster munitions face financial restrictions in implementing the Convention on Cluster Munitions provisions and providing technical assistance.

- Therefore, Maat suggests the necessity of including in the Convention a legal instrument binding on states parties and non-parties to it that combines international cooperation and assistance to victims of cluster munitions.
- Maat also recommends increasing international cooperation and assistance between state parties and involving civil society organizations in some technical operations, workshops, and intellectual awareness related to cluster munitions.

Maat also stresses that full compliance is necessary to ensure that the Convention prevents human suffering from these weapons on a large scale, so many State Parties still have significant work to do to decontaminate contaminated areas and assist victims, in addition to providing reports on the implementation of the Convention, and ensuring that laws and other measures are in place to punish any violations. States that need assistance should not hesitate to ask for it because cooperative compliance is the foundation of this Convention.

Therefore, Maat encourages the rest of the countries to move forward towards creating a world free of cluster bombs, and this will only be achieved by:

- Consolidating international efforts and assisting countries with fewer capabilities in clearing the lands of cluster munitions remnants.
- The necessity of non-party states joining the Convention, since the states party to it have not used cluster munitions since the existence of it, but rather the use and production come from non-party states.
- Providing deterrent penalties for each country, whether a party or not, in the event of the use or production of cluster munitions.

Finally, Maat for Peace, Development, and Human Rights emphasizes that:

- The states should commit to submitting reports on transparency and reporting measures on the specified dates.
- International efforts and assisting countries should provide aid and assistance to countries that cannot carry out disinfection operations in areas contaminated by cluster munitions remnants because disinfection operations require huge costs that exceed the capabilities of countries whose territories are affected by cluster munitions.
- International organizations and countries should cooperate to carry out the clearance operations and destruction of their stockpiles of cluster munitions, review this in their international seminars, highlight the importance of this matter, and encourage it at the international level, including encouraging non-party states to join the Convention.
- Work to share best practices and challenges and report voluntarily on the gender mainstreaming initiatives it implements, which will facilitate knowing the extent to which there is a commitment to taking into account the gender dimension, as well as creating more initiatives supporting a role for women in the effective implementation of the Convention Banning Cluster Munitions.
- States Parties should comply with their obligations and include data disaggregated by sex, disability, and age on victims and beneficiaries in their transparency reports, along with other relevant diversity considerations, as well as the need to expand the inclusion of women also in survey and disinfection teams.
- Women should be included in victim assistance teams to ensure access to female victims in conservative local communities.

¹ - Cluster Munition Monitor 2022, Cluster Munition Coalition, 25 August 2022, link

http://www.icbl.org/media/3348469/CMM2022_Embargoed-copy.pdf

² - القنابل العنقودية خبيثة ومحظورة ومع ذلك لا تزال مستخدمة، DW، 11 يوليو 2023، الرابط، <https://bit.ly/3R3MLPW>