

INDIA'S LANDMINE POLICY

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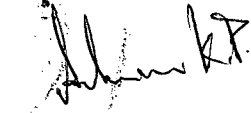
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I declare that the dissertation entitled **INDIA'S LANDMINE POLICY** submitted by me for the award of the degree of **MASTER OF PHILOSOPHY** by Jawaharlal Nehru University is my own work. The dissertation has not been submitted for any other degree in this or any other university.



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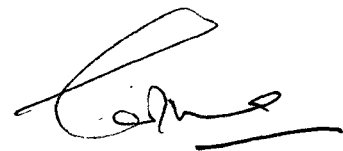
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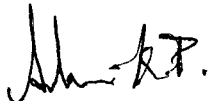
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Chapter-I

INTRODUCTION

Conflicts have many facets. One among them is the production and use of ordinances which greatly determine the contours and outcome of the conflicts. Landmines are among the most dangerous ordinances frequently used in armed conflicts the world over as they are easy and cheap to plant but with devastative effects.¹ However, the other facet of this tactic is equally disturbing: if not cleared, mines continue to kill or mangle long after the conflict is ended. They can last for decades, maiming, killing and disrupting the social and economic life of affected communities. Many Afro-Asian countries like Uganda, Angola, Mozambique, Iraq, Iran, Afghanistan, Pakistan, Bangladesh, India, etc. are worst affected by unabated use and misuse of landmines. Though there is international concern and effort in controlling the menace by building control regimes, nations have not and will not readily give up this effective option of ordinance in conflicts. India is no exception. Though it uses and severely affected by the landmines, India has not been part of any international landmines control regime so far.

Therefore, the objective of this study is to look into the issues relating to the production, use and control of landmines in general and India's policy thereof in particular. However, this introductory chapter aims to discuss only the conceptual aspect of the landmines issue within the prism of theoretical construct and also examines the available literature on the subject. In subsequent chapters, the study focuses on India and the South Asian region and the pattern of use of landmines and the possibility of their control. Though at the outset the phenomenon of the production, use and control of landmines seem anarchic, a deeper enquiry on the issue would reveal that it has never been anomic (without rules), notwithstanding their slackness. This binary debate resembles the Liberal Institutionalists and Realists debate about the role played by regimes (delineated areas of rule-governed activity) in the international system.²

¹ Davide Naggi and Valentina Frigerio, "Landmines and disability: a challenge faced together", *Humanitarian Exchange Magazine*, [Online: Web] Accessed on 3 December, 2009, URL: <http://www.odihpn.org/report.asp?id=2862>

² John Baylis, Steve Smith, Patricia Owens, (2008) *The Globalisation of World Politics: An introduction to international relations*, New York: OUP, pp. 296.311.

There are many other theories of international relations dealing with the interaction among countries on various issues such as security, armament, disarmament, cooperation, conflict resolution and so on in different dimensions. These theories have made international relations dynamic and diverse influencing the associations and interactions between number of countries functioning in the sphere of power politics. In this regard, two schools of thoughts Idealism and Realism are always dominant perspective in the international politics. Idealism focuses on the cooperative and interdependent nature of international relations whereas realism visualise the international politics in the prism of anarchical nature of international system. However, both try to establish international peace and security through differing instruments. While Idealism attempts to establish peace and security by collective security, disarmaments, cooperation, pacific settlement of dispute and through international organisations etc., Realism uses balance of power, armaments, war (if possible), defence alliances as the means to establish the international peace and security in the anarchical nature of international system.

Therefore, security becomes the main focus of both the theories. But realist school of thought put security, survival and statism in its basic assumptions. Power has an indispensable place in the theory of realism occupying an imperative place in the international discourse. Political realism, *Realpolitik*, is the oldest and most frequently adopted theory of international relations.³ Realism mainly depicts the international affairs as a struggle for power among self interested states and is generally pessimistic about the prospects for eliminating conflict and war.⁴ On the other hand, neorealist like Kenneth Waltz focusing on the effects of international relations has disregarded the aspect of human nature. Waltz emphasized that in the international system the absence of central authority has made it obligatory for the states to manage its existence in the international system on its own. Waltz argues that this condition would lead weaker states to balance against, rather than bandwagon with, more powerful rivals.⁵

³Burchill, Scott and Devetak Richard. (2005), *Theories of International Relations*, New York: Palgrave Macmillan, p. 29.

⁴ Walt, Stephen M. (1998), "International Relations: One World Many Theories," *Foreign Policy* (110), p. 4. Without ignoring the idea of anarchy realists like Morgenthau argued that the social world is but a projection of human nature onto the collective plane. Basically the rationale behind their argument is that pride, stature in the world politics would be the result of the conflicts which will go on for an indefinite period of time.

⁵ Ibid. (1998), p.5.

In International Relations, political realism is a tradition of analysis that stresses the imperatives states face to pursue a power politics of the national interest.⁶ Military power and state diplomacy becomes the key instruments of operation in realism. Realists are mainly concerned with their national interest, that is national security and survival consider states in international system to be inherently aggressive and competitive leading to security dilemma where once act to secure itself may lead to arms race in response from the other side. This struggle for power among the self interested nations forms the core of realism.⁷

The preservation of sovereignty, independence and autonomy has lengthened the scope of security in international politics. The primary concern of the state has always been to maintain its position in the international system. Vigorous power politics among self-interested nations have further focused on the idea of security in order to sustain against the rivalries has made concerns for the central part of international politics. At present, military power has become the main instruments in pursuing strong diplomatic relations among nations in the international forum. Focusing on the effects international system, Kenneth Waltz states that “the relativity of power requires states to be more concerned with relative strength than with absolute advantage.” The issue of security has compelled the states irrespective of their positions in world politics to rely on military strength to retain and maintain their positions, regain their lost standards and also maximise their interests. Initially the issue of security was more related to the defensive strategy rather than the offensive of a particular state. To defend themselves from foreign interventions developing an offensive military competence has become a prerequisite for states involved in power politics. Survival and domination became the extreme statement of defensive and expansive orientation which accentuated the use of various arms and ammunitions in the forename of security.⁸ According to the defensive realists like Robert Jervis and George Quester, powerful states could guarantee their security by forming balancing alliances and chose defensive military postures such as retaliatory nuclear forces.⁹ It is in this similar background of defensive military postures that the use and control of landmines can be studied.

⁶ Burchill, (2005), n. 3, p.29.

⁷ Snyder, Jack. (2004), “One World, Rival Theories,” *Foreign Policy*, (145), p. 55.

Burchill, Scott and Richard Devetak. (2005), n. 3, p. 30.

⁸ Burchill, Scott and Richard Devetak. (2005), n. 3, p. 43.

⁹ Walt, Stephen M. (1998), n. 4, p. 4.

With the advent of science and technology the possession of sophisticated arms and ammunitions has become a matter of prominence and reverence. Since the World War II a series of conventions to ban mass destructive weapons are conceded considering the gravity of the war crimes particularly on the civilian population. In spite of working towards implementing various conventions and protocols majority of the countries in the world possess the most precarious mass destructive weapons and the debate on disarmament and weapon free world is on table over and over again.

Global Scenario

Unfortunately the concern towards the problem of antipersonnel landmines has always been at the back seat. Along with small arms and light weapons, landmines occupy a significant position in wars as it is an indispensable strategic weapon in itself. They are used defensively to protect the strategic areas like borders, bridges and to hinder the manoeuvres of the opponents. It is a weapon which is being used in military by almost every country and is a dangerous explosive device which is easily activated when a person steps on it or a vehicle drives over it. Landmines were used on a large scale in the World War II and since then they have been extensively used in conflicts including Vietnam War, the Korean War and the First Gulf War.¹⁰ It was in Cold War that there was an extensive use of landmines in places like Asia, Africa and Latin America. The proliferation of antipersonnel mines is fuelled by the fact that they are easy to obtain, simple to use and most often undetectable. Antipersonnel mines are used in all types of conflicts especially in conflicts of non international character and with the increase of the interstate and intrastate conflict there has been a drastic increase in the use of antipersonnel landmines. They have always been a cause of constant threat especially in the post-conflict areas.

Around 15,000 to 20,000 people are killed or injured annually by landmines in more than 70 mine affected countries.¹¹ According to the International Committee of Red Cross, landmines have claimed more victims compared to any kind of nuclear or chemical weapons. Afghanistan, Angola, Burundi, Burma, Cambodia, Chad, Chechnya, Columbia, India, Iraq

¹⁰ *Landmines: A Deadly Legacy*, (1993), The Arms Project of Human Rights Watch and Physicians for Human Rights published by Human Rights Watch, USA, p.17.

¹¹ Hansen, Toran. (2004), "The Campaign to Ban Landmines," *Peace Review*, 16 (1), p. 2.

See also, Cameron, Maxwell A , Robert J Lawson and Brian W. Towline,(1998), "*To Walk Without Fear*", Maxwell A Cameron, Robert J Lawson and Brian W. Towlin (1998), ed., *To Walk Without Fear: The Global Movement To Ban Landmines* , London , p.2.

and Sri Lanka are some of the countries with large number of mine survivors. Landmines were extensively used by the Soviet Union during its invasion in Afghanistan. At present, Russia has been using landmines in places like Chechnya, Georgia thus vigorously making these places highly concentrated areas of landmines. It has been estimated that around 110 million unexploded antipersonnel landmines have been scattered in fifty six countries around the world.¹² Even after peace has been negotiated in countries like Cambodia, Angola, El Salvador, Mozambique civilians are facing an unpredicted threat emanating from the unexploded landmines.

Landmine Treaty

The genesis of landmine conventions goes back to the Convention on Certain Conventional Weapons formally known as *Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed to Be Excessively Injurious or to Have Indiscriminate Effects* concluded at Geneva in 1980.¹³ Protocol II of the Conventions on Certain Conventional Weapons is pertains to the mines, booby traps and other devices.¹⁴ Until the last decade of the twentieth century serious action with regard to the ban on landmines was not taken. Till 1994, countries around the world used it as a legal weapon and therefore in order to strengthen the convention on landmines, Protocol II of the Conventions on Certain Conventional Weapons was amended on May 3, 1996 by extending its provisions to cover both the international and internal armed conflicts. It also prohibits the use of non-detectable antipersonnel mines, non-self destructing and non-self deactivating mines outside monitored and marked areas.¹⁵ It also states that use of mines should be for military purpose only, indiscriminate use is prohibited, and all feasible precautions must be taken to protect civilians. Remotely-delivered mines may not be used unless their location is accurately recorded or they are handled with an effective neutralising mechanism, records must be kept of the location of pre-planned minefields, and the parties to a conflict are also to keep records

¹²Parlow, Anita. (1994), "Banning Landmines," *Human Rights Quarterly*, 16 (4), p. 5.

Parlow, Anita. (1995). "Toward a global ban on landmine," *International Review of the Red Cross*, n. 307, p.391. [Online: Web] Accessed on 26 December 2009, URL: <http://www.icrc.org>.

¹³ Lachowski, Zdzislaw. (1995), "The CD and the Ottawa Process: Rivals or Partners", *UNIDIR Newsletter*, 28 (29), p.10.

¹⁴ Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of the Anti-Personnel Mines and on their Destruction, 18 September, 1997 (Ottawa: Department of Foreign Affairs and Trade), Ottawa, p. 3. Raj, Christopher S. (2000), "Landmine Ban: A Poser to the World Conscience" in Christopher S Raj (eds.) *Stalking Terror Landmines in Peace and in War*, Delhi, Wordsmith, p. 19.

¹⁵Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of the Anti-Personnel Mines and on their Destruction, 18 September, 1997 (Ottawa: Department of Foreign Affairs and Trade), Ottawa, p. 5.

of other minefields laid during hostilities at the end of hostilities, the parties are to try to agree, either among themselves or with other states or organisations, to take the necessary measures to clear minefields.

Unfortunately, there has been a major limitation in the effective implementation of the conventions with regard to the use of landmines in the intrastate conflicts. It was in March 1995 that Belgium became the first country to pass a domestic law asking for a comprehensive landmine ban.¹⁶ By 1997, Belgium was joined by 122 states signing the ban convention. Currently 138 states have signed the convention and 101 have ratified it. One of the well known treaties in the area of landmine ban is the 1997 Antipersonnel Mine Ban Treaty, popularly known as the *Ottawa Treaty* which imposed a total ban on antipersonnel mines. The main focus of the anti-landmine faction was the destructive effects of minefields on civilian populaces after the end of hostilities.¹⁷ For the first time the use of weapons was seen not in terms of defence or offence but in terms of freedom to live particularly focusing on human security.

The Ottawa Treaty or the mine ban treaty, formally known as the *Convention on the Prohibition on the Use, Stockpiling, Production and Transfer of Antipersonnel Mines*, is a product of an responsive partnership between nongovernmental organizations, international organizations, United Nations agencies and various other governments.¹⁸ The convention entered into force on March 1, 1999 becoming the quickest major international agreement ever to enter into force in the history. As of May 2009, 156 states are part of the treaty.¹⁹ Unfortunately, there is a wave of unwillingness among the major powers of the world, with regard to the Ottawa Convention. Around 39 countries with a combined stockpile around 160 million antipersonnel mines have not acceded to the international mine ban treaty. They include three of the five permanent members of the UN Security Council (China, Russia and the United states), as well as many Asian states including India and Pakistan, some of the Middle East countries and former Soviet States. Among the 13 major mine producing

¹⁶ Raj, Chridtopher S. (2000), n.14, p. 23.

¹⁷ Morgan, Matthew, J (2002), "A New Kellogg Briand Mentality? The Anti-Personnel Landmine Ban," *Small Wars and Insurgencies*, 13 (3), p. 98.

¹⁸ Chaloner, Eddie and Steve, Mannion. (1997), "Total Ban on Landmines is Unnecessary," *British Medical Journal*, 315 (7210), p. 1465.

¹⁹ International Campaign to Ban Landmines, (2009), *Landmine Monitor Report 2009: Towards a Mine Free World*, Mine Action Canada, Canada, p. 156.

countries nine of them are from Asia. Gaining the momentum of major powers in the world United States, Russia and China has always had serious reservations on landmine ban policy.

United States policy on landmines was not genuine especially on the issue of use of landmines in Korean borders.²⁰ The US delegation attempted to exclude anti-handling devices and other self deactivating mines like smart mines and many more attached to anti-tank and anti- vehicle mines from the ban treaty by defining them as “submunitions”. The proposals put forward by US were vociferously opposed by the African delegates. In the Asian context, India, Pakistan, and China rank among the producers of landmines. In a closed door discussions held in Geneva as a part of the United Nations sponsored Review Conference Chinese representatives opposed the introduction of a specific minimum metal content for landmines. Initially countries including China, India, Cuba, Iran, and Pakistan refused to accept the verifications provisions or enforcement measures on landmine use.²¹ Uncertain attitude towards the landmine policies of these countries have been adversely affecting the global landmine ban policy.

The Indian Scenario

As far as landmines are concerned, India views antipersonnel landmines as one of the legitimate weapons and are an essential part of the Indian defence. Since 1997, India has abstained from any kind of pro ban resolutions initiated by the UN General Assembly. It has not acceded to the Ottawa Treaty and continues to use, produce, transfer and stockpile antipersonnel mines. It is one of the major producers of antipersonnel mines with all production in the hands of the government agencies. India is one of the fourteen countries in the world that still produces antipersonnel mines. India stockpiles between four and five million antipersonnel mines, having fifth largest stockpile globally. According to the Landmine Monitor Report 2007, India remains an active producer of antipersonnel landmines, and maintains a stockpile of at least 40 lakh of indiscriminate weapon.²²

The Indian External Affairs Ministry in its Annual Report 2000 states that security reasons in the borders have compelled the Indian army to use landmines purely in a defensive mode.²³

²⁰ Raj, Christopher S. (2000), n. 14, pp. 38-39.

²¹ International Campaign to Ban Landmines, (2007), *Landmine Monitor Report 2009: Towards a Mine Free World*, Mine Action Canada, Canada, p.167.

²² Ibid, (2007), p. 867.

²³“India Landmine and Cluster Munition Monitor,” (2000), [Online: Web] Accessed on 12 January 2010 URL: <http://www.themonitor.org/index.php/publications/display?url=lm/2001/india/>.

India has asserted that landmines will continue to play a decisive role in the defence of the states having long borders with difficult and inhospitable terrain. India has not been using mines for counter insurgency or for the maintenance of the law and order; it has been used in a defensive mode due to the vulnerability India is facing in its border areas. For India, landmine is very much necessary to prevent the infiltration of Pakistani trained extremists into Jammu and Kashmir.²⁴ Pakistan being one of the adversaries and Kashmir being the centric issue has always stimulated India's defence strategy constituting landmines as an important defence component. India openly acknowledges that it is laying mines along its border with Pakistan due to its defensive strategy. Ever since the attack on Indian Parliament in December 2001 both India and Pakistan have placed large number of antipersonnel and antivehicle mines along their common borders.²⁵ As many as two million mines were laid between December 2001 and June 2002 by the government.²⁶ Mines were planted for about 1800 miles in the North Western India Pakistan border specifically in Jammu and Kashmir, Punjab and Rajasthan being one of the highly mined areas in the world.²⁷ National security concerns have always been playing a key role in altering India's landmine policy.

Ban on landmines is only directed towards the interstate conflicts at the same time a number of states are highly affected with intrastate conflicts wherein landmines play a decisive role. India is facing a number of insurgencies in Kashmir and North Eastern states where there has been extensive use of landmines. There have been armed conflicts in these regions since 1940. There are more than 30 armed groups and rebels operating in North Eastern India.²⁸ In 2006-2007 there has been extensive use of antipersonnel landmines and IEDs in Assam,

Ambassador Rakesh Sood, Statement at the Second Annual Conference of States Parties to Amended Protocol II of the Convention on Conventional Weapons, Geneva, 11 December 2000, [Online: Web] Accessed on 12 January 2010 URL: <http://www.themonitor.org/index.php/publications/display?url=lm/2001/india/>.

²⁴ Singh, Prakash, "An Indian Assessment Low Intensity Conflicts and High Intensity crimes," [Online: Web] Accessed on 20 January 2010, URL: <http://www.satp.org/satporgtp/publication/faultlines/volume5/Fault5-10psingh.htm>.

²⁵ International Campaign to Ban Landmines, (2002), *Landmine Monitor Report 2002: Towards a Mine Free World*, Mine Action Canada, Canada, p. 647.

²⁶ "Ottawa Treaty Universalisation in South Asia : India Fact Sheet," [Online: Web] Accessed on 10 March 2010, URL : <http://www.landmineaction.org/resources/India.pdf>.

²⁷ Recent Landmine Use by India and Pakistan, (2002), Human Rights Watch Backgrounder, P.1. see, International Campaign to Ban Landmines, (2002), *Landmine Monitor Report 2002: Towards a Mine Free World*, Human Rights Watch, USA, pp. 660-662.

²⁸ Chandran, D Suba and Joseph, A. Mallika (2001), *Lethal Fields: Landmines and IEDs in South Asia*, Institute for Defence Studies and Analyses, New Delhi, p. 45.

Tripura, Nagaland and Manipur.²⁹ In 2006 and the first half of 2007 there was an increase in the intensity of armed conflict by the Communist Party of India-Maoist and a few other smaller groups including the Naxalites which further lead to the marked increase in the use of landmines and IEDs. Groups like the People's War Group in Andhra Pradesh have also been using landmines.³⁰

The most severe humanitarian problem causing civilian casualties has been in the conflict areas. Most of the deaths caused by landmines are reported in Jammu & Kashmir, along the Line of Control and the international border with Pakistan, Manipur and Chattisgarh. In Jammu and Kashmir alone, according to statistics reported by the Indian Army, 1,041 civilians were killed and a further 8,736 injured due to explosions caused by mines and IED between 1990 and January 2001.³¹ Landmine Monitor identified 107 casualties in 2007 which was higher compared to 2006.³² Casualties continued to occur in 2008 as well. In 2008 landmine and Improvised Explosives Devices (IED) casualties dropped worldwide.³³ But in India there has been no decrease in the casualties. According to the Landmine Monitor Report 2008 there has been considerable increase in the number of the casualties in comparison to 2007. Landmine Monitor Report 2009 states that around 3000 Indians have died due to landmines and about 2000 were injured in the last one decade.

Serious attempt has been made by various other non state armed groups to ban the use of landmines. The National Socialist Council of Nagalim-Isak /Muivah committed itself to the mine ban in October 2003 following which in 2006 the Kuki National Organisation and its armed forces in the North Eastern India renounced the use of the antipersonnel landmines by signing the deed of commitment administered by Geneva call. On March 4, 2009, the Zomi Re-unification terrorist Organisation has also banned the use of mines.³⁴ One major limitation

²⁹ "North East India is Second Highest Landmine Affected Region in India." [Online: Web] Accessed on 26 December 2009, URL: <http://www.freepressrelease.com/northeast-india-highest-landmine-affected-region-india-3000-indians-died-due-landmines-2000-injured-10-years/755/>.

³⁰ "Ottawa Treaty Universalisation in South Asia: India Fact Sheet," (2001), n. 26, p. 56.

³¹ "Recent Landmine Use by India and Pakistan," (May 2000), Human Rights Watch Backgrounder, [Online: Web] Accessed on 15 February 2010, URL: <http://www.jammukashmir.eclipse.co.uk/ind-pak-landmines>.

³² "Landmine and Cluster Monitor :India 2008 Key Data" [Online: Web] Accessed on 12 March 2010, URL: <http://www.the-monitor.org/index.php/.../display?act=submit>.

³³ International Campaign to Ban Landmines, (2009), *Landmine Monitor Report 2009: Towards a Mine Free World*, Mine Action Canada, Canada, p. 46.

³⁴ International Campaign to Ban Landmines, (2007), *Landmine Monitor Report 2009: Towards a Mine Free World*, Mine Action Canada, Canada, p. 637.

International Campaign to Ban Landmines, (2009), *Landmine Monitor Report 2009: Towards a Mine Free World*, Mine Action Canada, Canada, p. 367.

in the Indian landmine policy is that India doesn't have a civilian mine action programme. For landmine clearance activity India has to completely rely on the International Organisations. Indian government has wrongly been retreating that it is not facing any kind of problem due to uncleared landmines and it states that it is not a mine afflicted country.³⁵ Though India is a party to the 1996 Amended Protocol II of the Convention on Conventional Weapons but there has been a serious question about the manner in which India is implementing the amended protocol. Though India maintains that it never exported or imported antipersonnel landmines Indian made antipersonnel landmines have been declared by Bangladesh, Mauritius and Tanzania in Ottawa state parties transparency reports. Although there has been no reported government use of landmine during the last few years, many of the unexploded landmines remain in the Indian planted during the past conflicts. On the other hand, India's stance on landmines has been changing. India's presence in the First Review Conference in Nairobi in 2004 has given it an observer status. The Government of India attended the ninth meeting of state parties in Geneva but as a mere spectator. India also attended the May 2009, intersessional standing committee meeting without any statement but reiterated its intention of not signing the treaty in the near future.³⁶

South Asian Context

South Asia has always been immune to the problem of landmines. Afghanistan is one of the highly landmine affected countries in South Asia. The Afghanistan and Pakistan border is one of the areas severely affected due to the extensive use of landmines. One of the major obstacles in banning use of landmines in South Asia is the non-cooperation among the countries.³⁷ Many of the countries in South Asia are still strong defenders of the use of antipersonnel landmines. However countries like Bangladesh and Maldives are a part of the mine ban treaty which is a positive development in making South Asia landmine ban area. Though it is slow but there has been a positive development with regard to landmines in the past one decade. According to the Landmine Monitor Report 2009 the use of landmines by

³⁵ Kushal Deep, "Analysis: India Rejects Ban On Landmines" (18 January 2008), [Online: Web] Accessed on 14 April 2010, URL:http://www.spacewar.com/.../Analysis_India_rejects_ban_on_landmines_999.html.

³⁶ International Campaign to Ban Landmines, (2009), *Landmine Monitor Report 2009: Towards a Mine Free World*, Mine Action Canada, p. 764.

³⁷ Kushal Deep, "Analysis: India Rejects Ban On Landmines" (18 January 2008), [Online: Web] Accessed on 14 April 2010, URL:http://www.spacewar.com/.../Analysis_India_rejects_ban_on_landmines_999.html. Countries like India, Srilanka and Pakistan have been strong defenders of landmine use in defence. India and Pakistan claim that due to the vulnerability they are facing in the border areas landmines become an indispensable weapon in their defensive strategies. Internal disturbances caused by the non state actors have also been one of the major factors for the continuous use of landmines among the South Asian countries.

the government as well as non state actors has drastically decreased in the past one decade. Further the report says Myanmar and Russia are the two countries using landmines extensively. Eighty percent of the world's states have joined the treaty, and even without the support of China, Russia and the USA Mine Ban Treaty is one of the effective treaties in the world.³⁸

It is the need of the hour that the issue of landmines be considered as a matter of grave concern. Landmines are one of the inhuman and indiscriminate weapons claiming victims even after end of the conflicts. It has been adversely affecting the socio-economic development of the common people further becoming a barrier to the human development, especially in developing regions like South Asia. India, being a major power in the South Asian region, has to take serious initiatives to universalise the mine ban treaty in South Asia. India has stated that it “supports the vision of the world free of threat of antipersonnel mines” and noted that availability of military effective alternative technologies that can perform, cost effectively, the legitimate defensive role of antipersonnel landmines will considerably facilitate the goal of the complete elimination of antipersonnel mines.”³⁹

Review of the Literature

There is no dearth of literature on the issue of landmines. There is ample source on landmine conventions, mine ban treaties and various other issues related to landmines, but concerted study on the India's landmine policy is unavailable. There are many stray works on India's role in landmine ban. Wide range of literature is available as far as genesis, development and purpose of landmines is concerned. The development and the purpose of landmine has always been the focus of the literature in international politics. It has been discerned differently by different authors, covering the multiple dimensions such as military perspective, human security, etc.

Mike Croll in his book *History of Landmines* (1998) has leaped through the genesis and development and use of landmines. Croll narrates that Landmines originally developed as a counter measure against tanks. As the strategies of warfare altered antipersonnel landmines were developed as deterrent mechanism in order to restrict the movement of the enemies.

³⁸ “Mine Ban Treaty,” [Online: Web] Accessed on 10 February 2010, URL:<http://www.icbl.org/index.php/Treaties/MBT/Treaty-Basics>.

³⁹ “Landmine and Cluster Monitor: India Mine Ban Policy” [Online: Web] Accessed on 23 April 2010, www.the-monitor.org/custom/index.php/region_profiles.

Croll narrates how the modern versions of landmines were developed during the World War II, the use of landmines goes back to the ancient period of Rome. Croll has discussed the development, employment and clearing of mines before and after World War II. He has also covered the mine affected areas like Cambodia, Afghanistan and Bosnia. The concept of security being the core area of landmines has not been touched by the author. The author argues that the perceived humanitarian crisis is highly over stated, but the estimated humanitarian crisis by the international organisations has been understated as many of the landmine incidents go unreported. On the other hand, Croll has predicted that increase in the landmines will be a future reality.

Issues related to landmine action has been a central part has the repercussions of landmines in interminable. Giving a framework regarding the development of landmines, problems, characteristics of modern landmines, mode of operation, types of activation mechanism and deployment method, Rae McGrath in his book *"Landmines and Unexploded Ordnance"* (2000) has addressed broad range of issues related to the landmine action. With respect to demining operation the author has stressed on the structural management as the key instrument for demining programmes. He has also done a careful examination of the human, social, economic and environmental cost of landmine use. He has also explained as to how the humanitarian crisis caused by landmines did not become a political issue until 1980's. This work is particularly confined to the technical aspect of mine action. However the author is silent on the issues of the complexities of the organisations and inter-organisational relationships. On the other hand, South Asia being one of the highly mine-affected areas in the world has not been taken into account in the study.

As far as security and landmines is concerned, there have been divergent opinions regarding the ban on landmines. There has been a serious debate on the issue of national security and human security pertaining to landmines especially among the defence analysts and humanitarian organisations. On the question of human security, Ronald M. Behringer in his article *"Middle Power Leadership on the Human Security Agenda"* (2005) has started with the theoretical aspect of the concept of human security and has explained as to how the national interest of a country like US becomes the core area in disregarding an agenda related to the human security. Further, the author has maintained that fast track diplomacy is one of the effective approaches to work towards a humanitarian issue. He has highlighted the independent decision making of countries like Canada, Denmark, Netherlands and Norway

with regard the human security without being following the great power leadership on global security issues. Behringer has focussed on the authoritarian attitude of United States with regard to international laws and conventions like Regulation on the Legal Trade in Small Arms and Light Weapons. Though the author says that fast track diplomacy is more effective, the opinion and decision of the major powers is going to make an immense difference in making the humanitarian issues a universal concern.

International laws and conventions have been playing a key role in working towards banning landmines. The Ottawa Treaty is considered to be one of the successful international laws implemented in the international forum as far as landmines are concerned. Canada though not being one of the major powers in the international forum became prominent by taking up the human security agenda pertaining to landmines. Ottawa Treaty has been viewed as a process of democratisation in Maxwell A. Cameron's article "*Democratization of Foreign Policy: The Ottawa Process as a Model*" (1998). He has assessed that Ottawa Treaty banning landmines with 122 nations has been a basis of his formulation of democratisation of foreign policy making model. He explains that through its military perspective. Though Canada has upheld the principle of human security with regard to the ban on landmines it has nevertheless regarded mines as an essential part of the military arsenal. The positive foreign policy adopted by Canada regarding the ban on landmine is an instrument to bring over likeminded countries and institutions over such human security related issues. Cameron further hints on a convergence between policy makers and NGO's as a grassroots campaign that led the public, largely based on the merits of the issue, to support a ban. He concludes that due to the difference among all the institutions the struggle over landmines was not a two cornered fight between governments and NGO's but a three ringed fight between government NGO's and global public opinion. However this study is confined to the Canadian foreign policy and the role of other states in the successful implementation of the Ottawa Treaty find no mention.

The use of landmines has been extensive both in developing as well as underdeveloped regions. South Asian region being one of the major conflict zones in the world has seriously been paralysed by the disturbance caused by the non-state actors. Landmines occupy a prominent place in the South Asian conflicts. Various authors have worked on the landmine problems in South Asia. The status of landmine in the South Asian Region brought forth the attention of the international community owing to the presence of non-state actors. D. Suba

Chandran and A. Mallika Joseph (2001) in their book *Lethal Fields: Landmines and IED's in South Asia* have thrown light on landmine status in the South Asian region. Basically, the authors have focussed on the use of landmines by non-state actors in South Asia. This region is prone to interstate as well as intra-state conflicts. The authors have covered the major non state actors like the militant groups in Kashmir including the Hizbul Mujahideen, Lashkar-E-Toiba, militant groups in North Eastern India, the LTTE and many others.

The authors have done extensive field work and have referred to a number of landmine incidents especially in Naxal affected areas in Andhra Pradesh. Other than the landmines related incidents they have also referred to the use of Improvised Explosive Devices (IEDs) in South Asia. This book also covers the landmine reports of the South Asian countries including every country's landmine ban policy, production, transfer, stockpiling, use, mine action funding, mine clearance, landmine casualties and survivor assistance. Though it is not a detailed work on the landmine issue in South Asia, it gives a framework of landmines with special reference to the non-state actors. The focus of the book is more on the use of landmines by the non-state actors rather than the state actors. This study has limited information about the landmine policies of the South Asian countries as it has more focused on the case studies of the various landmine incidents mainly pertaining to the non state actors. It concludes that mines are militarily not high value weapons and the legitimate use of such a weapon would prevail over the humanitarian cost involved.

There have been divergent and conflicting views with regard to the India's landmine policy. Gurmeet Kanwal in his article "*Ban on Anti Personnel Landmines: An Update*" (1999) has focussed on the India's national security perspective. He states that due the existing tensions at the India Pakistan borders the use of landmines by Indian army is indispensable. National security has been a key factor in India's landmine policy. Contrary to this, Ajit Kumar in his article "*India's Landmine Policy*" (2001) has stated that India's landmine policy is fully governed by the idea of human security. He has sidelined the concept of national security which is a mainstay of India's landmine policy. Though India has taken human security into consideration it is the national security that has always been a deciding factor in defining India's landmine policy. However he has failed to see India's landmine policy within the national security perspective.

Over a period of time there have been arguments, discussions, laws, conventions and protocols on the issue of landmines. On the subject of global ban on the anti personnel landmines there has been a wide consensus among experts. Ban on landmines has been a global agenda since it is an issue of humanitarian crisis. There has been ever increasing concern among various likeminded institutions on the aggravating problems of landmines. Serious dialogue and negotiations have been leading to the ban on antipersonnel landmines. Anita Parlow in her article "*Banning the Landmines*" (1994) has shed light on the landmine ban convention in the context of the Cold War. The author has pointed out that the international lobby has turned towards the United States to use its global position to comprehend its humanitarian agenda. Further, the author states that United States is a country with little commercial or strategic interests in landmines and it would appear to be well positioned to support and mobilise support for the protection of the civilians. Unfortunately, United States has its own reservations when it comes to its own landmine policy. Though it stood for the landmine ban policy, it had a different stand when it came to the use of dumb mines in the Korean borders. The author has been keen on the role of the United States in addressing the issue of civilian distress, stating that the United States can play a leading role in the implementation of the ban on landmine but at the same time it has its own strategic interests in executing a humanitarian issue related to the landmines. The author has stressed more on the positive role of USA in taking up the issue of landmines which is not really the cause.

Kjell Earling Kjellman, Kristian Berg Harpviken, Anannda S. Millard and Arne in their article, "*Acting as one? Coordinating Responses to the Landmine Problems*" (2003) looks at the coordination within Humanitarian Mine Action and also the coordination between Humanitarian Mine Action and other humanitarian and development initiatives. It has also focussed on the United Nations led mine action operations in regions like Bosnia, Herzegovina and Afghanistan. The authors point out that coordination arrangements are embedded in a border institutional context and it is this context that leaves an impact on coordination. The study is mainly an outline of the coordination process in the landmine action. Focussing on the role of nongovernmental organisations Kenneth R. Rutherford in his article the "*Evolving Arms Control Agenda: Implications of Role of NGO's in Banning Antipersonnel Mines*" has stated that they are productive players on the global platform

related to issues like arms control. Though NGO's have been key players in making the landmine treaty successful, the role of nation states cannot be discounted.

John Borrie, Maya Brem, Silvia Cattaneo and David Atwood in their article "*Learn, Adapt, Succeed: Potential Lessons from the Ottawa and Oslo Process for other Disarmament and Arms Control Challenges*" (2009) have given a clear description and highlighted the key points of the Ottawa and the Oslo process. It is more a comparative analysis of the Ottawa and the Oslo process. The authors state that though Oslo and the Ottawa process are not similar but they are significant in many ways. According to them, the Ottawa Treaty, Conventions on Cluster Munitions have set an example in taking up positive issues like landmine ban policy. However the study does not cover the role of major powers of the world in building up partnership in this regard.

Scope of the Study

Subsequent chapters that follow looks into the necessity, application and repercussion of landmines use in general and the policy India adheres in this perspective. The study aims to examine the international conventions and agreements that ban antipersonnel landmines with special reference to the Ottawa Convention. In the process it examines the landmine issue in the South Asian region with focus on India as the issue of landmines seem overlooked. This study while highlighting the relevance of the issue examines policies of major powers of the world including US, China, Russia who are also not party to the landmine ban regime. While exploring on these issues, the study also analyses the complexities arising out of humanitarian crisis that the landmines are causing as the remnants are generally not cleared and continue to kill long after the conflict is ended.

As the study is focused on India's landmine policy, it specifically examines the security perspective behind the landmine use in Indian defence. While examining the landmine conventions, the study analyses the impact of landmine conventions on South Asian region. Another aspect the study has touched upon is the issue of non-state actors who also use landmines particularly in South Asia. It is assumed that India do not have a clear cut landmines policy; rather owing to security concerns in regard to India's geographical location, it is compelled to use landmines, especially to address the vulnerability in the border areas by constant infiltration around Indo-Pak border. Whatever policy India adheres on

landmines use is basically guided by its defensive requirements rather than as an offensive strategy. This suggests that regional rather than domestic factors are more important determinant of India's landmine policy.

The study is explanatory and descriptive in nature by utilising both qualitative and quantitative methods. Apart from the available secondary sources like books, periodicals, journals, newspapers, primary sources like official reports and document are extensively used. The joint statements signed by different parties of mine ban treaty, the Ottawa Convention, United Nations resolutions and documents are examined. This study also utilises the work of International Campaign on Banning Landmines along with the other major nongovernmental organisations. It concludes with a prescriptive note that India should early streamline its landmines policy as a responsible nation of the international community thereby would foster further movement at the regional level in regulating their use and production.

Chapter-II

DEFINING LANDMINES: GENESIS AND DEVELOPMENT

Innovations in mine warfare have come from a variety of sources throughout history. Mine and countermine technologies and techniques have evolved over the past 3,000 years and continue to evolve in the typical measure, countermeasure, and counter-countermeasure cycle seen for other weapons.⁴⁰ The use of arms and ammunitions in the history of defence and military differs in a variety of aspects. Strategic points have always occupied an important place in wars and conflicts, and creating a tactical barrier in order to impede the movement of the opponent has been extremely important. It is in this milieu that explosives like landmines were invented and used frequently in every kind of conflicts and wars. Landmines are one of the precarious, uncertain effective and easily accessible inventions ever made in the history of warfare, falling into that category of explosives which have been used in warfare throughout the ages.

Early Mining

“The word ‘mine’ is derived from the Latin word *mina* - ‘vein of ore’ and was originally applied to the excavation of the minerals from the earth. Basically the term ‘mine’ originates from the practice of mining. It was only in later times that the term ‘landmine’ was borrowed by the military engineers who were mainly assigned to dig landmines in the ground during sieges.”⁴¹ As veins of ore are found beneath the earth and as mines are buried underground the military engineers probably chose the name mines. Landmines are those explosives which are usually unattended explosives with detonating system that is triggered by coming into contact with a person or a vehicle. On the other hand, an anti-personnel mine is a mine designed to be exploded by the presence, proximity or contact of person and that will incapacitate, injure kill one or more persons.⁴² The widely accepted definition of landmines is “ammunition placed under, on or near the ground or other surface area and designed to be

⁴⁰ Major Schneck, William C. (1998), “The Origins of Military Mines,” *Engineer Bulletin*, p-1. [Online: Web] Accessed on 2 December 2009, URL: <http://www.fas.org/man/dod-101/sys/land/.../980700-schneck.htm>.

⁴¹ “The History of Landmines”, [Online: Web] Accessed on 26 December 2009, URL: <http://members.iinet.net.au/pictim/mines/history/history.html>.

⁴² Article 2 (1) of the Convention of the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction, referred to as Ottawa Treaty. [Online: Web] Accessed on 2 December 2009, URL: <http://www.icbl.org>.

exploded by the presence, proximity or contact of a person or vehicle.”⁴³ Mine warfare serves four primary purposes in counter mobility operations: firstly it is used for the disruption of enemy formations, key installations, supply routes and troop concentrations; as a force multiplier during close engagement with the enemy. Secondly for controlling and canalization of enemy forces, protection of friendly forces from enemy assault, and attrition of enemy personnel and equipment. The last is the most fundamental purpose of mine warfare in counter mobility operations and it is this potential - or the enemy's fear of it - that allows mines to accomplish the other three tasks, usually in conjunction with direct and indirect fire system wherein it helps to overcome or reinforce battlefield deficiencies/advantages in numbers and weapons; and in pre-planned defensive manoeuvres, for example to channel the enemy into target areas of one's own preference.⁴⁴ The basic motive behind using landmines as an indispensable weapon is not to kill the adversary instead it is used to maim and injure the opponent, under the assumption that a maimed soldier will hamper the fellow soldiers more physically and emotionally than a dead one.⁴⁵

The earliest use of landmines goes as far back as 2,500 years. There are sources which say that that landmine were extensively used in ancient China especially in third century B.C, claiming that Prime Minister Zhuge Liang of Shu kingdom invented a landmine like device. But most of the arguments made regarding the use of landmines in China seem to be dubious considering that the use of gunpowder in warfare came into the prospect only in the tenth century. It was only during the invasion of Mongols in 1209 A.D that explosives made of gun powder were used against them. At the same time, also the credit of introducing sea mines in warfare also goes to China. But the basic model of landmine goes back to the time of ancient Rome where sharpened spikes were buried in small foot sized ground in the hole.⁴⁶ The first devised landmines were primarily meant for injuring the opponent but they were not as devastating as the later mines because explosive mines developed only after the invention of gunpowder by the Chinese in the tenth century.⁴⁷ By the thirteenth century, the Chinese

⁴³ “Characteristics and Definitions of Mines,” in *Anti-Personnel Mines: an Overview*, (1996), Geneva, International Committee of Red Cross, p.3.

⁴⁴ Morgan, Mathew J. (2002), “A New Kellogg Briad Mentality? The Anti-Personnel Landmine Ban”, *Small Wars and Insurgencies*, 13(3), p.99.

Thakur, Ramesh. (1998), *Anti-Personnel Landmines*, *Pacifica review*, 10(1), p.3.

⁴⁵ Hansen, Toran. (2004), “The Campaign to Ban Landmines”, *Peace Review*, 16(3), p.365.

⁴⁶History of Landmines, [Online: Web] Accessed on 26 December 2009, URL: <http://members.iinet.net.au/pictim/mines/history/history.html>.

⁴⁷Landmine, [Online: Web] Accessed on 26 December 2009,

employed the gunpowder in a form of landmine known as the “underground sky soaring thunder.”⁴⁸ Caltrops were the first recorded landmines which were of non explosive types. The caltrop consists of four metal spikes joined together at the centre. The caltrop is simply thrown onto the ground, three of the spikes form the base resting on the ground and the fourth protrudes upward. Regardless of how the device is thrown, one of the spikes will always point upward.⁴⁹ Due to the unusual efficiency caltrops possessed they were widely used by the Romans in conflicts as well as open battles.⁵⁰

The foremost reason behind the development of mine warfare techniques was a response to the construction of walled cities. Initially landmines were used to destroy the enemy fortifications. The Assyrian Army organized the first known "corps of engineers" during the time of Ashurnasirpal II in about 850 B.C.⁵¹ Assyrians excelled in their art of warfare one of which was laying siege to a city. These military engineers operated siege and provided mobility for chariots. They were the first soldiers known with advanced iron pioneer tools and were credited with the first user of offensive mine warfare.⁵² Assyrians' success in besieging cities lay in their ability to take advantage of a wide variety of tools and tactics including psychological warfare, scaling the city walls, battering ramps and decisive mining.⁵³ Diodorus provides numerous accounts of the use of mines including those by Greeks, Macedonians and Romans and even the use of countermines by the people of Rhodes in 304 B.C.⁵⁴ Greek writer Philo made the reference that Greeks excelled in both mining and countermining warfare in his manual on warfare *Poliorketika*.⁵⁵ There are many instances of landmine use by Alexander the Great and his engineer Diades at the sieges of Halicarnassus in 334 B.C. and Gaza in 332 B.C. and Julius Caesar and his engineer Mamurra during the siege of Marseilles in 49 B.C.⁵⁶ Sophisticated strategic weapons like Towers, Palisades, Ditches, Aabatis, and Caltrops were used in ancient Greek warfare particularly during the

URL: [http:// www.sciencemuseum.org.uk/broughttolife/landmines.aspx](http://www.sciencemuseum.org.uk/broughttolife/landmines.aspx).

⁴⁸Croll, Mike. (1998), *History of Landmines*, UK, Pen and Sword Publication, p.8.

The underground sky soaring landmines were used to attract the opponents specially the trophy collecting horsemen. The device was made more colourful and attractive in order to attract the enemies. It was more like a pressure activated mine which initiated with an igniter attached to buried gunpowder charge.

⁴⁹Marin III, Albert G. (2003), “Anti-Personnel Landmines –Do Their Costs Outweigh Their Benefits”, *Strategy Research Project*, p.2.

⁵⁰Croll, Mike. (1998), n.9, p.5.

⁵¹ Major Schneck, William C. (1998), n.1, p.2.

⁵² Ibid. (1998), n.1, p.2.

⁵³Youngblood, Norman. (2006), *The Development of Mine Warfare: A Most Murderous and Barbarous Conduct*, USA: Greenwood Publishing House. p.2.

⁵⁴ Ibid, (2006), p.2.

⁵⁵ Ibid, (2006), p.3.

⁵⁶ Major Schneck, William C. (1998), n.1, p.2.

reign of Julius Ceaser to create a tactical barrier for the opponents. Ceaser had provided the details about the exceptional mining potential during the Gallic wars. It was only in the tenth century China that landmines in the form of explosives came to be used in warfare. Gunpowder became a key component in the production of explosives. Around 1050 Chinese invented the “Thunderclap Bomb” which was designed primarily as an incendiary device.⁵⁷ This device was basically named after the sound it created during its explosion and was primarily designed as incendiary device. The main purpose of using this weapon was the damage it caused due to its explosive power and the chaos and confusion generated due its noise generated during the explosion. Followed by the “Thunderclap Bomb” the Chinese invented the more advanced “Thundercrash Bomb” which was deadlier than its antecedent.⁵⁸ The credit of developing a first explosive sea mine the “Submarine Dragon- King” also goes to China.⁵⁹

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One of the breakthroughs in the technological development of the landmines was the advent of gunpowder in Europe further marking the beginning of modern weaponry in Europe. The introduction of gunpowder into Europe completely changed the technique of European warfare. The earliest description of a pressure-operated landmine is provided by the German military historian H. Frieher Von Flemming in 1726.⁶⁰ He defined the ‘fladder mine’ which literally meant flying mine as “consisting of a ceramic container with glass and metal fragments embedded in the clay containing 0.90 kilos (2 lb) of gunpowder, buried at a shallow depth in the glacis of a fortress and actuated by someone stepping on it or touching a low strung wire”.⁶¹ It was only in the second half of the nineteenth century that the pressure operated mines became the regular feature of the warfare.⁶² The ancient four spiked Caltrop is compared to the present day landmine in a tactical defensive context and design function. With a design almost unchanged in 2,500 years, they are one of the longest serving pieces of military hardware in existence.⁶³ By 1,530 numerous experiments were conducted to improvise the technical status of landmines in Sicily and southern Italy. The earliest

⁵⁷Youngblood, Norman. (2006), n.13, p.4.

⁵⁸ Ibid, (2006), p.4.

⁵⁹ Needham, Joseph. (1986), *Science and Civilization in China: Vol 7*, New York, Cambridge University Press, p.203.

⁶⁰ “Landmines: The History” [Online Web] Accessed On 10 December 2009, URL: <http://members.shaw.ca/landmine/ihistory.htm>.

⁶¹ Croll, Mike. (1998), n.9, p.15.

⁶² Croll, Mike. (1998), n.9, p.15.

⁶³ “History of Landmines,” [Online: Web] Accessed on 30 December 2009, URL: <http://Members.iinet.net.au/pictim/mines/history/history.html>.



landmines are believed to be *Fougasses* also known as the poor man's artillery basically belonged to the category of cannons.⁶⁴ The *Fougasses* were primarily used for the protection of the fortifications. They were primarily made up of black powder and projectiles, which are basically an under surface cannons and jetted out rocks and debris over a large area. It was considered one of the effective weapons for defensive as well as offensive purposes. This term is still applied to those weapons which use similar warfare techniques. In 1573, a German military engineer Samuel Zimmermann in Augsburg invented an extremely effective *Fougasse* replacing the functional mechanism known as *Fladdermine*.⁶⁵ With the improvement in technology the igniting method of operating a *Fougasse* was replaced with the flintlock method.⁶⁶ This change in the functioning of the *Fougasse* enabled it to adopt the tripwire mechanism which is more passive and further making it an anti-personnel fragmentation mine. The most important forms of *Fougasse* are the Stone Fougasse, Shell Fougasse, and Flame Fougasse. Forms like Stone Fougasse are employed by irregular forces even to the present day.

The first improvised antecedent of landmines was used in the fifteenth century at the battle of Agincourt in England.⁶⁷ The first devices designed to explode on target-contact were floating mines or the water mines first. The first reference to these mines was employed by the US Confederate Navy during the Battle of Williamsburg in 1862.⁶⁸ The credit of developing operational mines goes to Brigadier-General Gabriel J. Rains of America during the battle of Yorktown. From 1862-63, Rains worked to design a mine which would explode even at the slightest pressure. By 1863, mines invented by Rains were being extensively and effectively used throughout that period.⁶⁹ With the upcoming of industrial revolution eighteenth century

⁶⁴“History of Landmines.” [Online: Web] Accessed on 30 December 2009, URL: <http://members.iinet.net.au/pictim/mines/history/history.html>.

Fougasses were the earliest gunpowder landmines used mainly for defensive strategies. They were used to destroy rocks and debris over a large area.

⁶⁵ Major Schneck, William C. (1998), n.1, p.2.

⁶⁶Ibid, n.1, p.2.

Flintlock method is basically the fire mechanism used in rifles. Fougasses was always manually ignited; as the black powder was very much susceptible to the moisture the effectiveness of the explosive was unpredictable. In order to increase its effectiveness of the fougasses the manually igniting method was replaced by the flintlock method which is primarily the fire mechanism method used in the rifles. [Online: Web] Accessed on 2 January 2010 URL: <http://www.statemaster.com/encyclopedia/Land-mine>.

⁶⁷“The Problem of Landmine: History,” Canadian Landmine Foundation, [Online: Web] Accessed on 2 January 2010 URL: http://www.clearlandmines.com/landmineProb_History.cfm.

⁶⁸“History of Landmines,” [Online: Web] Accessed on 2 January 2010 URL: <http://members.iinet.net.au/pictim/mines/history/history.html>.

⁶⁹“History of Landmines,” [Online: Web] Accessed on 2 January 2010 URL: <http://members.iinet.net.au/pictim/mines/history/history.html>.

witnessed a transformation in the production of arms and ammunitions. The industrial revolution gave an impetus further resulting in the invention of effective landmines. On the other hand, by eighteenth century booby traps were also invented in Europe and were one of the widely used weapons in wars and conflicts. Subsequently these improvised mines were also used in American civil war in the nineteenth century and were known as “Land Torpedoes”.⁷⁰ Landmines were not used in a significant number in the nineteenth century except few of the colonial campaigns until the World Wars. Landmines including Fougasses, electrically- fired observation mines and even electrically- initiated vibration and pressure-sensitive mines were extensively used in Russo-Japanese war.

The Two World Wars

The two World Wars saw a drastic change in the technological up gradation of arms and ammunitions. Series of innovations were made in the field of defence which made warfare more sophisticated and complicated. Landmines occupied an integral part in the warfare during the World Wars. It was during this period that landmines became a weapon of highest priority in wars. The primary objective of using anti-personnel mines in the modern strategies of warfare is to inflict personnel casualties, deny access to the terrain, provide security to unit defensive perimeters, and hinder the opponents from clearing anti-tank mines.⁷¹ New types of weaponry like tanks were introduced in order to create deadlock in the trench warfare. It was in this background that anti-tank mines were invented in response to assault tanks. Anti-tank mines were developed with an objective of maintaining the momentum of an attack by combining armoured protection with firepower.⁷²

Germans invented the first anti-tank mines in response to the British tanks during the World War I. Germans excelled in the manufacture of variety of sophisticated mines including

⁷⁰ Torpedos are basically a self propelled explosive operated below or underneath the surface including underwater designed to detonate in contact or in the vicinity of the target. The term torpedo was primarily used for the self propelled missiles used underwater basically launched from a submarine. Generally the term torpedo It is applied to a number of explosives which has a characteristic of hiding underneath but they are specifically used for the naval mines. Therefore explosives like booby traps, landmines, naval mines fall into the category of torpedos. During the American civil war the term land torpedo was used for the present day contact mine and booby traps. The explosives with pressure fuses like the former used during the American Civil war are the forerunners of the modern landmines.

[Online: Web] Accessed on 5 January 2010 URL: <http://www.historyonthenet.com/ww1/weapons.html>.

⁷¹ Marin III, Albert G. (2003), “Anti-Personnel Landmines –Do Their Costs Outweigh Their Benefits,” *Strategy Research Project*, p.5.

⁷² Croll, Mike. (1998), n.9, p.28.

wooden box mine and standard anti-tank mines. The Germans excelled in the field of mechanical engineering which clearly revealed their mine production. Their designs followed a number of fundamental principles: safety (for the layer), reliability, economy, simplicity, counter- countermeasures and durability.⁷³ “In 1929, the Germans introduced the first mass produced anti-tank mines Tellermine 29 (Tmi29), it was also the first in a series of modern pressure-fused anti-tank mines. This series formed the basis for many of the anti-tank mines used to date, including the U.S. M15.”⁷⁴ Machine gun dominated the battle field during the World War I as a result of static trench war and therefore Anti-personnel mines were not extensively deployed in Europe during World War I.⁷⁵ On the other hand World War I saw the invention of sophisticated mines by the British one of which was the mines filled with poisonous gas known as Mustard Mines. Most of the countries involved in the World War I followed the improvised designs of the landmines developed by Germany.

The Second World War was an era which witnessed an extraordinary advance in the military technology, landmines were no exception. During World War II (1939) – (1945) the task of defence seemed to have become easier with the invention of Trinitrotoluene (TNT), a light weight explosive used for the first anti-tank mines where approximately 10kg of TNT was packed into steel cylinders and then buried. These were extensively used by allied and axis powers.⁷⁶ Anti-personnel and anti-tank mines were employed in large quantities throughout the battle zones. One of the most effective anti-personnel mines during this time was the German-made "Bouncing Betty", which was designed to jump from the ground to hip-height when activated and to propel hundreds of steel fragments within a wide range.⁷⁷ The anti-tank and anti-personnel landmines were developed as “strategic, defensive weapons intended to protect troops, military bases and key installations, whereas anti-tank mines are specially designed to destroy or incapacitate tanks and other vehicles.”⁷⁸ They were also used to delay

⁷³ Ibid, n.9, p.42.

⁷⁴ Major Schneck, William C. (1998), n.1, p.2.

⁷⁵ Maslen, Stuart. (2001), p-5, *Anti-Personnel Mines Under Humanitarian Law: A View from the Vanishing Point*, UK, and Intersentia Publication.

⁷⁶ Sundararaman, Shankari. (1997), “Landmines: To Ban or Not To Ban,” *Strategic Analysis*, 7 (47), p.1121.

⁷⁷ Bouch Betty is popularly known as S-mines or schrapnellmine mines in German. One of the important characteristic of the S-mines was to maim the victim rather than killing. They were described as one of the most feared devices encountered and occupied an important place in the defence strategy by the allied troops in the wars. Approximately more than 1 million S-mines were produced by Germany.

[Online: Web] Accessed on 3 January 2010 URL: <http://news.org/InDepthMain.aspx?InDepthId>.

⁷⁸ Banerjee, Dipankar. (2000), “*Military Utility*” in Christopher S Raj (eds.) *Stalking Terror Landmines in Peace and in War*, Delhi, Wordsmith, p.78.

the advance of enemy troops to deny them access to certain areas and resources and to burden them with soldiers injured by landmines. In some instances, mines were laid “to maximize the demoralizing psychological effect on troops through the use of ‘nuisance minefields.’”⁷⁹ Soldiers during World War I and World War II operated in a climate of fear (of mines) and invested valuable time and energy in clearing the suspected mine areas.⁸⁰ During World War II, more than 300 million Anti-tank mines, filled with powerful, lightweight Trinitrotoluene (TNT), were deployed by all warring parties.⁸¹ Almost towards the end of the World War II, Germans developed the first modern full width attack mine the Holh Spring mine 4672 representing a momentous improvement in mine technology as well as mine production.⁸² According to the US defence intelligence agency, out of 300 million anti-tank mines, 220 million Anti-tank mines were used by Soviet Union alone.⁸³

Post World War II

Advances in the mine technology, as in all areas of weaponry, accelerated in the decades following World War II, primarily in response to changing battle field requirements and the development of new technologies.⁸⁴ Post-World Wars witnessed rapid advancement in technology which in turn accelerated the weapon industry. In fact, every significant armed conflict since 1945 has witnessed an increasing use of APMs.⁸⁵ Since 1945 the designs of mines is said to have concentrated on five criteria: effectiveness, size delectability, logistic effort and spread of laying.⁸⁶ There was an increased advancement in the production of landmines by 1990 and around 600 types of landmines were invented which completely

⁷⁹ “History of Landmines,” Humanitarian News and Analysis, [Online: Web] Accessed on 2 January 2010 URL: www.irinnews.org/InDepthMain.aspx.InDepthId.

See, Landmine/UXO Problem, Golden West Humanitarian Foundation, [Online: Web] Accessed on 2 January 2010 URL: <http://www.goldenwesthf.org/index.php.option>.

Landmines were used by the military personnels in order to adversely affect the mental stability of the opponent. An injured soldier would cause more burdens rather than a dead soldier. It is in this background that landmines were mainly designed to maim rather than kill a soldier.

⁸⁰ Sundararaman, Shankari. (1997), “Landmines to Ban or Not To Ban,” *Strategic Analysis*, 7(47), p.1124.

⁸¹ “History of Landmines,” [Online: Web] Accessed on 2 January 2010 URL: <http://www.menstuff.org/issues/byissue/minehistory.html>.

⁸² Major Schneck, William C. (1998), n.1.

⁸³ Maslen, Stuart. (2001), n.33, p.6.

⁸⁴ *Landmines: A Deadly Legacy*, (1993), The Arms Project of Human Rights Watch and Physicians for Human Rights published by Human Rights Watch, USA, p.17.

⁸⁵ Vines, Alex. “The Crisis of Anti-Personnel Landmines” in Maxwell A Cameron, Robert J Lawson and Brian W. Towlin ed., *To Walk Without Fear: The Global Movement To Ban Landmines* (London 1998), p.123.

⁸⁶ Maslen (2001), n. 33, p.8.

changed the very idea of strategic importance in warfare.⁸⁷ Post-World War era saw an extensive use of landmines in the defence. Landmines in defence became one of the most legally acclaimed weapons used by a number of countries engaged in wars and conflicts. They were extensively used in the battle lines in Korean War (1951-1953) and Vietnam War (1958-1968) Arab Israel war, Gulf war and number of civil wars in countries like Rhodesia, Cyprus, Mozambique and Angola.⁸⁸ Both the Korean and the Vietnam wars led to the specific development of new anti-personnel mines.⁸⁹ Around 2.5 miles wide demilitarised zone was completely mined restricting the movement between both North Korea and South Korea. Approximately 2 million anti-personnel mines were planted in the barriers which separated North Korea and South Korea.⁹⁰ According to the International Campaign to Ban Landmines (ICBL), the United States has an enormous stockpile of landmines in Korea, including 40,000 Air Force Gator Mines, 10,000 Army Volcano mines, a small number of man-portable Modular Pack Mine Systems (MOPMS), and 1.2 million M16 and M14 dumb mines.⁹¹

Vietnam witnessed a high intensity war during cold war in 1975 experiencing an extensive use of landmines. Landmines were also employed in the Vietnam War in an extremely effective manner, albeit different than the manner used in World War II or in the Korean War.⁹² Landmines were a commonly used weapon by all the forces during the Vietnam War. For United States, North Vietnamese, South Vietnamese landmines became an integral part of the military strategy and even to this day landmines are an indispensable weapon in order to maintain the division between north and South Korea.⁹³ Aerially delivered mines or the scatterable mines were first introduced by the US forces in the Vietnam War. These remotely delivered or scatterable mines were more offensive rather than defensive further increasing its offensive strategy. Aerially delivered anti-personnel mines had a number of advantages compared to their manually emplaced counterparts- they could be deployed rapidly, required little logistic support and could be laid deep within enemy held territory, causing disruption

⁸⁷ Ibid, n.33, p.8.

⁸⁸ Croll, Mike. (1998), n.9, pp.114-120.

⁸⁹ Landmines: A Deadly Legacy, (1993), n.42, p-8.

⁹⁰ "US use of landmines in Korea: Myths and reality," (2002), Vietnam Veterans of American Foundation.

⁹¹ Stohl, Rachel. (2000), "Landmines Remain Issue in Korea," *Defence Monitor*, 2(5), p.1.

[Online: Web] Accessed on 5 January 2010 URL:[http:// www.cdi.org](http://www.cdi.org) > CDI Library > The Defence Monitor > 2000.

⁹² Marin III, Albert G. (2003), n.29, p.6.

⁹³ Stohl, Rachel. (2000), n.49, p.1.

in troops' movement and supply lines with a minimal risk to the air crew.⁹⁴ Mines were used randomly to impede the movements of the non combatants. Mines were indiscriminately planted around the villages, footpaths and rice fields to disrupt the life of the civilians. On the other hand, the scatterable mines with its smaller size and lethal characteristics increased the density in the warzones further making the civilians more vulnerable. Aircrews referred to the mines as "garbage" from the scale of deployment and random targeting.⁹⁵

Some of the common mines frequently used were the: BLU-26, BLU-61, BLU-43, BLU-44 Cluster Bombs. BLU-43 and BLU-44 which was nick named as 'Dragon Teeth' by the Soviet Union because of the sharpnels they contained. The BLU 2 was transformed into the fragmentation mine the B40 "apple mine" and is still encountered in Cambodia.⁹⁶ Around 3,00,000 tons of scatterable landmines were dropped by the US armed forces in the northern Laos during the Vietnam War to cut short the movement of men and material between Laos and Cambodia.⁹⁷ US produced mines like the M14 were frequently used as they made up of plastic and were difficult for the de-miners to unearth.⁹⁸ Caltrops were used as recently as the Korean Conflict, when the U.S. Air Force dropped them on Chinese convoys to puncture tires. The U.S. also dropped them on the Ho Chi Minh trail during the Vietnam War.⁹⁹ Around 57 percent of the casualties in the US armed forces especially the Marine Corps casualties were caused by landmines and booby traps. According to the Bomb and Mine Disposal Technology Centre (BOMICEN) at the Engineering Command, 600,000 tons of war-time bombs and explosives currently lie under the ground throughout Vietnam.¹⁰⁰ Mike Croll stated that "as the World War II saw the mixed minefield firmly embedded into the defensive doctrine of conventional armies, so the Vietnam War established the mine as a

⁹⁴ Maslen, Stuart. (2001), n.33, p.5,

⁹⁵ McGrath, Rae. (1998), *Landmines: Legacy of Conflict: A Manual for Development Workers*, Oxford, Oxfam, p.3.

⁹⁶ Croll. Mike, (1998), *History of landmines*, UK, Pen and Sword publication, p.107.

⁹⁷ It is reported that between 1966 and 1968, US Department for Defence procured more than 114 million Anti-Personnel Mines for use in the Vietnam War.

⁹⁸ Stohl, Rachel. (2000), Vietnam's deadly legacy, *Center for Defence Information*.

[Online: Web] Accessed on 5 January 2010 URL: [http:// www.cdi.org](http://www.cdi.org) > [CDI Library](#) > [The Defence Monitor, 2000](#).

⁹⁹ Major Schneck, William C. (1998), n.1.

¹⁰⁰ Hathway, James. (2007), "Vietnam Sits atop at 600,000 Tons of Landmines and Bombs," *Vietnam Net Bridge*.

[Online: Web] Accessed on 2 January 2010 URL: www.clearpathinternational.org/cpiblog/archives/000891.

major offensive weapon of guerrilla forces technology and manpower can be countered by simplicity and stealth”.¹⁰¹

With the increase of low-intensity conflicts in the 1960s and 70s in many of the developing countries, landmines became a preferable weapon more often a weapon of choice for many government troops, paramilitaries, and guerrilla forces. They were cheap, efficient, and resilient weapons of war, readily available, and easy to manufacture especially in conflict inflicted countries like Bosnia, Chechnya and Kosovo.¹⁰² According to the official estimates, anti-personnel mines cost approximately three dollars to purchase.¹⁰³ As landmines became more prevalent, the distinction between their defensive and offensive use was distorted. With the outbreak of the civil war Cambodia witnessed large scale deployment of landmines all over the country. The Vietnamese invasion in Cambodia in 1978 resulted in the extensive use of landmines by warring parties. The Khmer Rouge and other warring factions in Cambodia indulged in the landmine warfare to an extent that Cambodia became one of the highly mined countries in the world.¹⁰⁴ An estimate of four to six million landmines has been deployed in Cambodia. Angola, Mozambique, Somalia are highly concentrated with large areas mined with millions of APMs. Large stretches of economically vital land has been heavily mined which is adversely affecting the socio economic conditions of the civilians especially in the underdeveloped countries.

During the confrontation with Vietnam the Chinese laid over 800,000 APLs were implanted covering area of around 230sq kilometres known as the ‘Region of Death.’¹⁰⁵ The decades of 1970s and 1980s witnessed a widespread Soviet Occupation in Afghanistan which marked increase in the deployment of landmines during the Soviet invasion in Afghanistan. Grazing areas, agricultural land were heavily mined to halt the movement of the civilians. The Soviets used major counterinsurgency strategies in Afghanistan in order to restrain the Mujahideen

¹⁰¹Croll, Mike. (1998), n.9, p.108.

¹⁰²Maslen, Stuart. (2001), n.33, p.15.

¹⁰³ International Committee of Red Cross, *Anti-Personnel Landmines : Friend or Foe : A Study of the Military Use and Effectiveness of Anti-Personnel Landmines (Geneva, 1996)*, p- 14.

¹⁰⁴ Landmines in Cambodia, Cambodia Mine Action Center, [Online: Web] Accessed on 16 January 2010 URL: www.mekong.net/cambodia/mines.htm.

Tuttle, Celina and Epp Joanne, (September 1995), “International Campaign to Ban Landmines: Another Step Forward,” *The Ploughshares Monitor*, 16(3), [Online: Web] Accessed on 16 January 2010 URL: www.ploughshares.ca/libraries/monitor/mons95c.html

¹⁰⁵ “China and Anti-Personnel Landmines,” (2007), Published by James Martin Centre for Non-proliferation Studies, Monterey Institute of International Studies. [Online: Web] Accessed on 6 January 2010 URL: <http://www.nti.org/db/china/aplorg.htm>.

forces. Number of technologically advanced landmines was used by Soviets, one of which was the PFM-1 Scatterable Pressure Sensitive Blast Mine also known as “butterfly mine which could be deployed by helicopter and mortar fire.”¹⁰⁶ This was the improved version of the scatterable mines used by the US forces in the Vietnam wars. These mines were widely used to intimidate the population. The United States also focused on the production of ‘family of scatterable mines’ or FASCAM, apart from rapid deployment, all the FASCAM mines featured self destruct systems, common parts and maximum lethality.¹⁰⁷

By 1970s, landmine production received a boost due to the ongoing conflicts all over the world and the proxy wars fought by countries like the US and Soviet Union in places like Angola, Vietnam, Korea, Afghanistan, and Cambodia. On the other hand, introduction of plastic mines gave an additional reverence to those countries which indulged in landmine warfare. Plastic mines were laid randomly with records or any sort of mapping with an intention of complicating the mine clearance operation. The use of plastic landmines added an additional advantage as it enhanced its sustainable capability. Italian companies developed and exported extensively state of the art fused mechanism and plastics, one of which Anti-personnel landmines were a SB33 landmines which were undetectable.¹⁰⁸ Yugoslavia was also a major landmine and munition producer with the breakup of the ethnic conflicts. As Yugoslavia broke up, each of the warring factions, the Bosnia Croats, Muslims and Serbs assured themselves of the ability to produce the landmines.¹⁰⁹ By 1990s, the landmine problem aggravated to an extreme extent that civilians started using landmines for varied purposes in their daily activities, in Cambodia APMs were used to protect their homes and livestock and were also used to settle local disputes.¹¹⁰ In places like Columbia and Casamance region of Senegal APMs were purportedly used to protect the illegal drug plantation.¹¹¹

¹⁰⁶ McGrath, Rae. (1998), n.53, p.18.

¹⁰⁷ Croll, Mike. (1998), n.9, p.108.

¹⁰⁸ Maslen, Stuart. (2001), n.33, p.5.

¹⁰⁹ Yates, Donald R. (1996), *The Landmine and the Dilemma and the Role of the US Government*, USAWC Strategy Research Project, Pennsylvania, Carlisle Barracks, p.5.

¹¹⁰ International Campaign to Ban Landmines, *Landmine Monitor Report 1999: Towards the Mine Free World*, New York, 1999. [Online: Web] Accessed on 15 February 2010, URL: www.icbl.org.

¹¹¹ International Campaign to Ban Landmines, *Landmine Monitor Report 2000: Towards the Mine Free World*, New York, 2000. [Online: Web] Accessed on 15 February 2010, URL: www.icbl.org.

On the other hand, in the Gulf War both Iraqi and Coalition Forces deployed landmines extensively. U.S deployed around 2.2 million mines both conventional scatterable and artillery delivered mines in the Gulf war.¹¹² Other than these major wars, landmines were extensively used in Arab-Israeli war, Indo-Pak war, Indo-China war, Iraq- Israeli war and many more.¹¹³ Without any sort of distinction it was both used by the state actors as well as non state actors in states like Angola, Mozambique, Cambodia, Nicaragua, Ethiopia, Cambodia, Mozambique and Somalia.¹¹⁴ UN estimated that around 7 to 10 million mines were scattered sixty eight countries causing serious damage to the civilians especially in the underdeveloped countries. The post cold war era further witnessed numerous regional conflicts which has in a way increased the use and production of landmines. Based on the historical assessment of the use of all landmines Mike Croll asserts that a given range of tactical situation, terrain and types of forces that used them, its effect was never decisive, but always influential, subtle, but never insignificant, mines have undoubtedly been one of the most flexible weapon systems of the late 20th century.¹¹⁵

Types of Mines and Mine Fields

Militarily, landmines have a significant role, especially since they provided the cheapest military option for the border defence.¹¹⁶ With the advancement in military warfare the production of landmines has reached a stunning point. No matter if a country is developed or underdeveloped; using landmines in warfare has become an issue of power. On the lines of warfare landmines occupy a very important position in the defence strategy. From the military point of view there are six types of minefields which are generally applied in the battle lines:¹¹⁷

1. **Defensive Minefields:** The very term defensive indicates that these mines are generally laid for the defensive purposes. It is the frontline defensive barrier in order to curb the initial movement of the opponents. The defensive minefield denies the

¹¹² Marin III, Albert G. (2003), n.29, p.7.

¹¹³ Anti-Personnel Landmines Friend or Foe? A Study of military Use and Effectiveness of Anti-Personnel Mines (1996), Geneva, International Committee of Red Cross, pp.15-17.
History of Landmines.” [Online: Web] Accessed on 30 December 2009, URL: <http://members.iinet.net.au/pictim/mines/history/history.html>.

¹¹⁴ Opcit,(2003), n.29, p.8.

¹¹⁵ Croll, Mike. (1998), n.9, p.123.

¹¹⁶ Sundararaman, Shankari, (1997), n.34, p.1122.

¹¹⁷ Banerjee, Dipankar. (2000), “Military Utility”, in Christopher S Raj (eds) *Stalking Terror landmines in peace and war*, Delhi, Wordsmiths, p.70.

opponent forces an easy access to the territories existing close to the borders as they are long and stretched over long distance. Generally these minefields are laid before a war or a conflict. Overcoming such fields is usually not too difficult since the invading troops have to make only a few entry points.¹¹⁸

2. **Tactical Minefields:** The foremost objective of the tactical minefields is to deny access to the terrain. These minefields laid in conjunction with other types, or natural and other obstacles, whose primary purpose is to directly attack enemy exercise as part of a formation obstacle plan and are laid to delay, channel or break up an enemy advancement. These minefields contained a mix of antitank and antipersonnel landmines. Most of the modern defence strategists would disapprove the application of such mines as it faces a lot of limitation. Modern satellite reconnaissance and other intelligence gathering techniques now allow nations to choose their military options carefully and make suitable plans and therefore these tactical minefields would seldom be expected to serve their purpose.¹¹⁹
3. **Border Minefields:** The border minefield is a recent phenomenon in the minefield warfare. These kinds of minefields are generally used at the border in order to deny the access to the hostile groups infiltrating the area.¹²⁰ Especially countries having long borders have been extensively mined in order to prevent the infiltration. The deterrence effect has not been that effective though. In spite of borders being heavily mined there is large number of infiltration on the borders.
4. **Dummy Minefield:** Dummy minefield doesn't really consist of the real mine, these minefields mined with dumb mines is basically used to threaten the enemies. This was basically done due to the inadequate supply of resources in order to deceive the enemies. "In most of the cases of dummy mines few real mines also have been implanted alongside so as to confuse the enemy."¹²¹
5. **Nuisance Minefields:** These minefields are usually "laid during withdrawal time as it doesn't permit laying an elaborate and planned minefield. It is supposed to follow a uniform layout common to the entire defensive forces. The patterns used in nuisance

¹¹⁸Sundararaman, Shankari, (1997), n.34, p.1122.

¹¹⁹Banerjee, Dipankar. (2000), n. 74. p.71.

¹²⁰Sundararaman, Shankari, (1997), n.34, p.1122.

¹²¹Ibid, p.123.

minefields differ from regiment to regiment because their breaching or lifting becomes very difficult in practice though they are marked.”¹²²

6. **Protective Minefields:** “The main purpose of protective landmines is to provide close protection to a defensive position. These minefields include both Anti-Personnel landmines as well as Anti-tank landmines. Mainly laid close to and along approaches, these are said to have maximum utility and are the most commonly cited justification for mine use in combat. They are also considered as force multipliers as they reduce the deployment and commitment of troops and free them of their tasks.”¹²³

Types of Mines

With the development of science and technology sophisticated landmines have been invented in order to reach the needs of the changing war trend. Mines are categorised on the basis of its functioning like the type of fragmentation, their explosive content and method of delivery.¹²⁴ The two basic kinds of landmines are the Anti-personnel mines and Anti-tank mines. Mines are further classified into conventional mines like the dumb mines and self destruct mines.

Anti-personnel Mines

Anti-personnel mines, as the term implies, are weapon designed specifically to kill or incapacitate the human being, as distinguished from the other weapons whose function is to destroy or render vehicles, equipment or material ineffective. Anti-personnel mines (APMs) can be specific, as in a pressure operated blast mine or trip wire activated which will usually kill or injure only the person stepping on it or in general, such a fragmentation mines, which will kill or maim not only the victim initiating the mine but also anyone with its effective range.¹²⁵ Approximately there are around 300 types APMs which have been produced by various countries. ATMs are generally produced in various shapes, designs and size weighing up to 50grams. By and large, ATMs are offensive mines primarily produced to injure the opponent. Among the most prevalent mines deployed around the world are the Chinese type 72, soviet PM/PMN-2 and PMF-1, the USM18A1 Claymore and the Italian VS-50 and the

¹²² Banerjee, Dipankar. (2000), n. 74. P.72.

¹²³ Ibid, n.64, p.72.

¹²⁴ Ibid, n.64, p.72.

¹²⁵ Landmines: A Deadly Legacy, (1993), n.42 pp.18-19.

Valmara 69.¹²⁶ APMs are divided into two divergent groups known as Blast Mines and Fragmentation mines. They are generally categorised based on the mode of operation.

Blast Mines

Blast mines are the most commonly used mines in warfare. These are designed to explode when the victim steps on it directly. They are triggered off or activated when pressure is laid on their sensitive pressure plate i.e. when someone steps on the pressure plate, applying about 5 to 16 kg of pressure. Functional operation of these mines basically relies on the pressure effectiveness. Modern blast APMs are produced in plastic watertight casing. They contain minute quantities of metal almost impossible to detect with an electronic mine detector.¹²⁷ One of the most common blast mines is the Soviet made PMN or PNM-2 which is commonly known as “Black Widow” due to its colour.¹²⁸ The PNM’s are manufactured with dangerous explosives with the primary objectives of injuring the victim to a large extent.¹²⁹ The famous “Butterfly mines” used by Soviet in Afghanistan and the “Apple mines” used in Cambodia fall into the category of blast mines.¹³⁰ Generally small children end up to be the victims of these mines due to its attractive shape and size. US manufacture M-14 mine is another popular pressure activated blast mine. M-14 mines were used extensively by the US armed forces in the Korean War.¹³¹ Even to this day it is used by Burmese armed forces.¹³²

Fragmentation Mines

These mines made up of small fragment or metal elements which are usually laid above the ground turn into lethal projectiles by the detonation of the mine and are generally laid above the ground. Fragmentation mines are laid on the ground but when triggered rise above the ground before exploding thus sending shrapnel, pre cast fragments or steel balls over a radius

¹²⁶Goose, Stephen. “The Economics of landmines,” *UNIDIR Newsletter*, n.28/29, Dec 1994/ May 1995, Switzerland, p.14.

¹²⁷ Banerjee, Dipankar. (2000), n. 74, p.74.

¹²⁸ “Landmines a Deadly Legacy: The Arms Project of Human Rights Watch and Physician of Human Rights” (1993), USA, Human Rights Watch, p.199.

¹²⁹“Explosive Content of Mine,” [Online Web] Accessed On 7 January 2010 URL:<http://www.nolandmines.com/explosivesinmines.htm>.

¹³⁰ Raj, Christopher S. (2000), “Landmine Ban: A Poser to the World Conscience,” Delhi, Wordsmith, p.74.

¹³¹ International Campaign to Ban Landmines, (1999), *Landmine Monitor Report 2009: Towards a Mine Free World*, Mine Action Canada, Canada, p.477.

¹³² Andrew Selth, “Landmines in Burma the Military Dimension,” [Online Web] Accessed On 10 January 2010 URL: <http://www.burmadebate.org/archives/winter00landmines.html>.

of 10 to 50 meters.¹³³ They are also known as ‘Stake Mines’ as most of these mines are attached to the stakes. Fragmentation mines were used extensively in World War II. These mines are categorised into Bounding Mines, Directional Mines and Simple Fragmenting Mines.

Bounding Mines

Bounding mines are considered to be the most lethal APM. Its functional operation includes both fragmentations as well as blast mechanism and is usually operated by tripwire mechanism and generally used in open areas. One of the popularly known bounding mines is the German manufactured S-mine or the “Bouncing Betty” and Italian manufactured Valmara 69 (VS69).¹³⁴

Directional Fragmentation Mines

These mines are an improved version of an early European Fougasse. These mines shoot out steel balls at high velocity in a predetermined direction and are set off by tripwires or by remote control.¹³⁵ The US made M-18 claymore mine is the most effective and dangerous of all these.

Simple Fragmenting Mines

These are basically stake mounted fragmenting mines. “The Stake Mine that emerged from World War II is still used today without significant changes to its design. The best-known example is the Soviet-made POMZ-2 mine.”¹³⁶

Scatterable Mines

These mines are basically deployed by artillery, rocket or mortar dispensers or mortar dispensers attached to helicopters or any other land vehicle. These mines are basically known for faster response, remote emplacement, increased tactical flexibility, efficiency and

¹³³ Croll, Mike. (1998), n.9, p.112.

¹³⁴ The Problem Of Landmines, The Canadian Landmine Foundation, [Online: Web] Accessed on 2 January 2010 URL: [http:// www.clearlandmines.com/landmineProb_History.cfm](http://www.clearlandmines.com/landmineProb_History.cfm).

¹³⁵ “Landmines a Deadly Legacy: The Arms Project of Human Rights Watch and Physician of Human Rights” (1993), USA, Human Rights Watch, p.198.

“History of Landmines:” [Online: Web] Accessed on 8 January 2010 URL:<http://www.menstuff.org/issues/byissue/minehistory>.

¹³⁶ Major Schneck, William C. (1998), n.1, p.7.

increased lethality.¹³⁷ Scatterable mines were first used by US in the Vietnam wars. Most of the casualties among the US armed forces were due to these mines. Most of the Scatterable mines include both ATMS AND APMs. In order to meet the requirements of modern warfare US produced 'family of scatterable mines or FASCAM.¹³⁸ These mines can be scattered than any other conventional mines. The Soviet manufactured PFM-1 Butterfly Blast mine are widely used in warfare.¹³⁹

Chemical Mines

Chemical mines are those mines which generally release chemicals when activated and are more lethal in nature. The British-developed Livens Projector is considered to be the first chemical mine.¹⁴⁰ Livens Projector was key weapon of the British in both the World Wars mostly used for gas attacks.¹⁴¹ These chemical mines consisted large quantity of inflammable, toxic chemicals. The other popular chemical mines are US manufactured M23 Chemical Mines, Russian made KHF-1 Bounding Mine and KHF-2 Bounding mine.¹⁴²

Flame Mines

Flame mines or flamethrowers are tripwire activated bounding mines which throws fire when operated. It is one of the mines which have been used in warfare since times. Flame mines were used widely in the 19th century warfare by countries like Russia, Germany and England.

¹³⁷“Family of Scatterable Mines,” [Online: Web] Accessed on 8 January 2010 URL: <http://www.globalsecurity.org/military/systems/fascam/htm>.

¹³⁸ Croll, Mike. (1998), n.9, p.112.

The main objective behind designing FASCAM was to overcome unfavorable force ratios, counter surprise attacks and extract maximum attrition from an enemy at ranges where direct fire weapons were ineffective. BLU 42 and 54 were initially designed aircraft delivery mines. The helicopter delivered M56 was also a pressure activated anti-tank mine.

¹³⁹ “Mine Fields,” [Online Web] Accessed On 12 January, URL: <http://www.menstuff.org/issues/byissue/minehistory.html>.

¹⁴⁰ Major Schneck, William C. (1998), n.1, p.7.

¹⁴¹ Jones Simons, (2007), *World War I Gas Warfare: Tactics and Equipments*, New York, Osprey Publication, p.27.

¹⁴² “List of Landmines,” [Online Web] Accessed on 15 January, URL: http://www.worldlingo.com/ma/enwiki/en/List_of_land_mines.

Side-Attack Mines

Side-attack mines were first employed by the Germans and the soviet during the World War II. The advent of shoulder-fired ATMs led to the development of side attack AT mines. Soviet made LMG type of side-attack mine is still being used in North Korea.¹⁴³

Wide Area Mines

The forerunner of the wide area mine are the Russian made “dog mine” which operates without the supervision of a person.¹⁴⁴ Advanced form of wide area mines have been developed by number of European countries including US.

Sea Mines

Naval mines or sea mines are basically self contained explosives used to destroy ships and submarines in warfare. These mines are especially used in naval warfare and continue to be an important weapon in naval warfare changing the nature of naval war.¹⁴⁵ Sea mines have been classified into contact mines and moot contact mines like Limpet mines, drifting contact mines, bottom contact mines, remotely controlled mines, influence mines differentiated mainly based on its functioning and characteristics.¹⁴⁶

Anti-aircraft mines

Antiaircraft mines are those of its kind which has not been widely used due to technological paucity. The first improvised anti helicopter mines were used during the Vietnam War. During the Cold War, the Russians developed an antiaircraft mine based on their surface-to-air (SA)-7/14 missile for use by their special-purpose forces (SPETZNAZ) against NATO airbases.¹⁴⁷ As the production of these mines demands sophisticated technology the process has been at a slow pace.

¹⁴³ Major Schneck, William C. (1998), n.1, p.7.

¹⁴⁴ Ibid, p.2.

¹⁴⁵ Youngblood Norman, (2006), *The Development of Mine Warfare: A most Murderous and Barbarous Conduct*, USA, Greenwood Publication, p.67.

¹⁴⁶ “Naval Mine,” [Online Web] Accessed On 12 January 2010 URL: http://www.wordiq.com/definition/Naval_mine.

¹⁴⁷ Major Schneck, William C. (1998), n.1, p.6.

Smart Mines

Self-destructing and self-deactivating mines are known as smart mines, they are designed to self destruct after a predetermined time and don't last for an indefinite time. The main objective of manufacturing these mines was to reduce the risk faced by the armed forces as well as civilians in the post war period. These mines were produced in order to avoid the risk caused by the use of Dumb Mines. They increasingly incorporate sophisticated electronic timing, remote control system and advanced 'target identification' systems using magnetic, seismic, acoustic and infrared sensors.¹⁴⁸ These mines generally intend to minimise the scope of danger caused to the civilians in the post war period.

'Booby Traps' or Improvised Explosive Devices (IED)

These are devices or switches which are added to the existing ordnance or mines which make them victim 'activated rather' than 'impact activated', or 'victim activated' in a different manner from the original design.¹⁴⁹ Explosive Booby Traps were first used by the Chinese against the Mongol invasion. "During the Civil War, Confederate soldiers employed a variety of these devices including Pull-firing Devices, Timer-Rundown Fuzes, and coal or wood "torpedoes" that detonate when burned in a boiler. Booby Traps reached full maturity during World War II, when reliable German mechanical anti-handling devices were introduced, and have been used in almost every conflict since.¹⁵⁰

Anti-tank Mines

World War I witnessed the introduction of ATMs in warfare. The primary purpose of these mines was to counter and incapacitate tanks. ATMs are much larger in size when compared to APMs and are primarily designed to destroy battle tanks, including armoured vehicles with a heavier explosive charge upto 14kg. ATMs are highly pressure activated devices which are activated by the direct pressure caused by a tank or a vehicle. Most antitank mines are either pressure or magnetically fused. Regardless, foot soldiers simply deactivate the antitank mines by removing the fuse mechanism, or destroy the mine in-place by detonating a small

¹⁴⁸ Goose, Stephen. (1995), n.83, p.15.

¹⁴⁹ McGrath, Rae. (1998), n.53, p.7.

¹⁵⁰ Major Schneck, William C. (1998), n.1, p.7.

explosive charge next to it.¹⁵¹ Modern Anti-vehicle mines are highly sophisticated and contains computer circuitry that can detect critical mass, ferrous metals or vibration and can easily target heavy vehicles with high level of destructive capacity.¹⁵² Soviet made EZ Mine was the first ATM. Germany excelled in the manufacturing of ATMs called Tellermine. Anti-vehicle mines are a smaller version of ATMs. Though it is a pressure activated device the degree of pressure required is less compared to that of ATMs. Considerable changes have been made in the modern ATMs with the advancement in technology. More effective explosives like RDX and sophisticated fuses have been used in order to restrict demining. ATMs have been used extensively in majority of the wars and conflicts including Korean War and Indo-china war.

Landmine Production

Landmine production is assuming increased importance in this changing trend of warfare. The production and trade of APMs has always been a secretive business. Over the past few decades around 50 countries have involved in the landmine production as well as trade. Over the last decades until 1990 more than 25 million landmines had been produced including 190 million ATMs,¹⁵³ with an estimation of 5 million landmines annually with a market value of \$50 million to \$200 million annually. Governments and companies refuse to disclose information about their involvement in the production or sale of mines. Publicly trading landmine producing firms consider the production of landmines as a sub segment in the larger line of production. Landmines have always been sidelined in the annual defence reports and documents in spite of it being an integral part of the tactical strategies. The Arms Project of Human Rights Watch has compiled a list of nearly 100 companies in 54 countries - both in the developed and developing world - that have manufactured more than 340 models of antipersonnel landmines or their components, at a production rate of five to ten million mines a year.¹⁵⁴ In 2010, there are 13 countries involved in landmines production out of which nine

¹⁵¹ Marin III, Albert G. (2003), n.29, p.5.

¹⁵² Pearn, John. (1996), Landmines Time for an International Ban: The United Nations should end this Killing and Maiming of Civilians, *British Medical Journal*, 312 (7037) p. 990.

¹⁵³ Goose, Stephen. (1995), n.83, p.13.

¹⁵⁴“Landmine Production and Trade,” [Online: Web] Accessed on 10 January 2010 URL: <http://www.clearmines.com>.

are from Asia.¹⁵⁵ The major landmine producers in the world are United States, Italy, former Soviet Union, France, Austria, Sweden, Vietnam, former Yugoslavia, China and UK.

However, there are nineteen countries that are not the signatories to the landmine ban treaty. China and Russia the leading mine producer in the world produce variety of mines including the cheapest type 72 has been deployed in most of the mine affected countries. Approximately China alone has independently produced around 22 APLs. Most of the Russian mine producing firms are state owned. The Chinese North Industry Corporation (Norinco) is one of mine producing firms involved in the production of relatively low technology products¹⁵⁶. Among the developing countries Egypt being one of the highly mine infested countries of the world, which is also a leading mine producer among the developing nations. The leading landmine firms of Egypt are Heliopolis Company for chemical industry, Kaha Company for chemical industry and Mascara Company of Engineering Industry controlled by the ministry of war production.¹⁵⁷ Singapore is one of the significant producers of mines, Chartered Industries, controlled by the state-owned Sheng-Li Holding Company, produces and markets copies of two Valsella (Italy) designed AP mines. Singapore is reported to have exported AP mines to Iraq.¹⁵⁸ Italian companies like Valsella, Technovar and misar produced wide range of landmines.¹⁵⁹ A recent study by the US Defence Intelligence Agency obtained under the Freedom of Information Act names China, Egypt, Pakistan and South Africa as new "ambitious marketers of landmine munitions deeply involved in high technology proliferation."¹⁶⁰

One of the important reasons for the global landmine crisis is the landmine exports. China, Italy, US and former Soviet Union has been the largest mine producers as well as exporters in the world. US being one of the leading mine producer has around 47 companies involved in

¹⁵⁵“ Landmine and Cluster Munition Monitor,” [Online Web] Accessed on 10 January 2010 URL:<http://www.the-monitor.org/index.php/LM/The-Issues/FAQs>.

Moore Alphin John and Pubantz Jerry. (2002), Encyclopedia of United Nations, New York, Infobase Publication, p.500.

¹⁵⁶“Landmine Production and Trade,” [Online: Web] Accessed on 12 January 2010 URL: <http://www.clearmines.com>.

¹⁵⁷Shawns Roberts and Williams Jody. (1995), *After Guns Fall Silent: The Enduring Legacy of Landmines*, Washington, Vietnam Veterans of American Foundation, p.180.

¹⁵⁸“Landmines: exports and imports,” [Online: Web] Accessed on 10 January 2010 URL: <http://www.landminewatch.com>.

¹⁵⁹Croll, Mike. (1998), n.9, p.112.

The following three companies specially in 1970s manufactured mine with fuze mechanisms and plastic. Misar produced the non detectable SB33. Most of the mines produced by the Italian companies were made of resilient plastics and textured pressure plates which looks more sculptured rather than manufactured.

¹⁶⁰Landmines: exports and imports, n.103.

the production of ATMs. In a period of two decades, US has exported around 4.4 million mines to countries like Angola, Afghanistan, Cuba, Iraq, Kuwait, Mozambique, Nicaragua, Somalia, South Korea and Sudan. China made type 72 is extensively used in countries like Iraq, Afghanistan, Pakistan, Sri Lanka, Angola, Kuwait, Cambodia, Rwanda, Zambia, and Somalia.¹⁶¹ Landmine proliferation has further augmented due to the increased spread of militant and insurgent activities especially in regions pertaining to South Asia. Many of the developing countries are extremely paralysed with political crisis which in turn as resulted in the emergence of non-state actors operating against the state. India, Srilanka and Pakistan are facing dreadful problems from the militant activities.

The cost effectiveness and the easy accessibility have increased the use of landmines and improvised explosive devices (IEDs) by the non-state actors. Non state actors like the Naxalites, Maoists, separatist groups in north eastern India and Kashmir have been using the landmines and IEDs as an imperative tool of counter attack. Srilanka has been one of the countries highly paralysed by separatist movements and has always been vulnerable to the problems of landmines. Landmines have been extensively used by militant organisations like Liberation of Tamil Tigers Elam (LTTE).¹⁶² The increased demand for landmines as a measure of counter attack against the state by the non-state actors has given a boost to the illicit landmine trade. In spite of landmines being considered as one of the precarious weapons and are subjected to regulations, they have been exported as well as imported legally or illegally. The affordable cost of production and easily available techniques have made landmines one of the widely used weapons in the world. Unless and until a global ban is imposed the landmine production will be a never ending mission.

The change in political scenario across the world led to the advanced development in manufacturing “Land Mines”. What began as a simple tool of defence seems to have ended up being one of the most dangerous and precarious weapons ever used in conflict situations. Over the centuries various nations have been using weapons which owe some similarity to what is now called a Landmine. Landmines have placed themselves in a well placed position that none of the countries defence would like to give up the use of landmines taking the so called national security into consideration. As Mike Croll asserts that “the given the range of

¹⁶¹ The Arms Project of Human Rights Watch, (1993), *Landmines: A deadly Legacy*, New York, Human Rights Watch, p.34.

¹⁶² Chandran, D Suba and Joseph, A. Mallika. (2001), *Lethal Fields: Landmines and IEDs in South Asia*, Institute of Defence Studies and Analyses, New Delhi,

tactical situation, terrain and types of forces that used them, mines have undoubtedly been one of the most flexible weapon systems of the 20th century. He goes on to claim that the mine, ‘the silent sentinel, may become the war hero of the 21st century.’¹⁶³ The different types of these weapons, techniques used and dangers these weapons pose have been aforementioned and the policies that govern the use of these weapons have been discussed in the following chapter.

¹⁶³ Maslen, Stuart. (2001), n.33, p.11.

Chapter III

INTERNATIONAL LAW ON LANDMINES

Throughout history, laws and codes of conduct associated with wars are generally influenced by the religious concepts and philosophical ideas.¹⁶⁴ The ethics of war were generally drawn on the lines of religion and spirituality, further providing a sanction to make it universally binding. Customary rules are the part of the very first rules of international law.¹⁶⁵ In India, laws on wars and conflicts go back to the fourth century B.C literature containing provisions which forbade the use of certain weapons such as poisoned and burning arrows. Likewise, Greeks and Romans also prohibited the use of poisoned weapons.¹⁶⁶ Though there was a continuous use of these weapons, an attempt was made to reduce its use in warfare through religious sanctions. It was only in the nineteenth century that the laws of war were made legally binding, taking the unnecessary suffering inflicted on the civilians into consideration.

International humanitarian law is a branch of law pertaining to the laws of warfare, traditionally known as the “law of war” and now referred to as law of armed conflict.¹⁶⁷ The main objective of laws of war was to regulate and provide a legal limit to the conduct of parties indulged in wars and conflicts. It largely addressed the issues related to the prohibition of certain unethical weapons, prisoner’s treatment, and treatment towards sick and wounded in armed conflict. Excessive use of arms and ammunitions in wars and conflicts and its grave impact caused on the mankind has compelled the concerned groups to initiate the implementation of humanitarian laws in order to regulate the warfare patrons. These laws basically regulate the conduct of the hostilities and the treatment of those not actively participating in the conflict like the civilians, the wounded, the sick and the prisoners of war. It seeks to minimize suffering and ensure that both combatants and civilians are treated humanely.¹⁶⁸ The initiative taken by Henry Dunant, founding father of Red Cross and Red Crescent Movement, through his publication *Memory of Solferino* describing the violent face of the wars, helped to set a platform for the international humanitarian law. The efforts of

¹⁶⁴ Maslen, Stuart. (2001), *Anti-Personnel Mines under Humanitarian Law: A View from the Vanishing Point*, UK, Intersentia Publication, p.12.

¹⁶⁵ Ibid, p.12.

¹⁶⁶ Ibid, p.12.

¹⁶⁷ Maresca, Louis and Stuart, Maslen. (2000), *The Banning of Anti-Personnel landmines: The Legal Contribution of the International Committee of Red Cross 1955-1999*, UK, Cambridge University Press, p.7.

¹⁶⁸ Ibid, p.7.

Dunant encouraged the Swiss government to mobilise the world powers to a diplomatic conference in order to adopt the first international humanitarian law treaty- the 1864 Convention for the Amelioration of the conditions of the wounded in Armies in the field.¹⁶⁹ It is under this background that laws pertaining to the ban on the use of poisonous gas, biological warfare, blinding laser weapons and anti-personnel mines were implemented. Initially the international community did not address the issue of landmines and its impact on the mankind directly. Landmines have been extensively used in majority of wars and conflicts, irrespective of that the international laws and regulations allied to the use of landmines have always been malleable. The issue of landmines have always been concealed in the dialogues of disarmament. In the preliminary stage it was very unusual to find a tough international law on landmines but there was a corpus of soft law, consisting of resolutions of the United Nations and other specialised agencies.¹⁷⁰ Even with the non-existence of conventions, the use of landmines is against the laws of war. Wars are bound by certain rules and regulation according to which use of indiscriminate weapons are prohibited, there has to be a clear distinction between combatant and non-combatants. These general principles of the laws of war have emanated right from 1899, the 1907 convention, the Hague Convention and run through the Geneva Conventions and others like the Conventions on Conventional Weapons.¹⁷¹

There are a series of laws and regulations which can be relied upon for prohibiting the use of landmines. The humanitarian concern and certain tenets of international law brought into focus the need for a ban on the anti-personnel mines. The International humanitarian laws have addressed certain methods and means of wars, taking the humanitarian laws into consideration. It also prohibits the use of weapons which inflict unnecessary suffering whose damaging effects are inconsistent with their military purpose. The foremost treaty provision based on this principle is the 1868 St Petersburg declaration, drafted by the International Military Commission which came up as a response to the indiscriminate use of war bullets which explode in the human body. The declaration proposed that it is legitimate for the state to use those weapons which paralyse the military and not those weapons which cause superfluous injury to the civilians. The declaration articulated the basic principle of law of war “that the only legitimate object which states should endeavour to accomplish during war

¹⁶⁹ Ibid, p.8.

¹⁷⁰ Khan, Rahmatullah. (2000), “An Uncivilized Weapon”, in Christopher S Raj (eds.) *Stalking Terror Landmines in Peace and in War*, Delhi, Wordsmith, p.161.

¹⁷¹ Ibid, p.161.

is to weaken the military forces of the enemy and that arms which uselessly aggravate the sufferings humanity of disabled men or render the. Inevitable...would therefore be contrary to the laws of humanity.¹⁷² This principle was the basis of the 1925 Geneva Protocol prohibiting poisonous gas and was reaffirmed in Article 35 of the Additional Protocol I of 1977.¹⁷³ Further the declaration also states that “the Contracting Parties engage mutually to renounce, in case of war among themselves, the employment by their military or naval troops of any projectile of a weight below 400 grams, which is either explosive or charged with fulminating or inflammable substances”.¹⁷⁴

After the adoption of St. Petersburg declaration a conference was convened by Alexander Gorchakov at St.Petersburg attended by fifteen European governments wherein the Russian government proposed a draft treaty. Though this declaration was not officially adopted, Article 12 of this declaration proposed the ban on those weapons which cause unnecessary suffering on both civilians as well as the combatants. Article 12 of the declaration states that, “the laws of war do not recognize in belligerence an unlimited power in the adoption of means of injuring the enemy”.¹⁷⁵ In addition, Article 13 of this declaration prohibits the use of poison or poisoned weapon causing unnecessary suffering to the mankind. Premised on the customary principle codified in the St. Petersburg Declaration, the first Hague Peace Conference 1899 as well as the Second Hague Peace Conference of 1907 renounced the use of specific weapons in wars and conflicts.¹⁷⁶ This was a breakthrough achievement in the history of International Humanitarian Laws wherein three conventions and two protocols associated to the laws of war were adopted. The Hague International Peace Conference of 1899 was attended by 26 states including a delegation from the United States with the main intention of “limiting the progressive development of the existing armaments and to revise the declaration concerning the laws and customs of war established in 1974 Brussels declaration.”¹⁷⁷

¹⁷² Beck Louise Doswald and Peter, Herby. (1995), Landmines: “A Critical Examination of Existing Legal Instruments”, *UNIDIR Newsletter*, 28(29), p.6.

¹⁷³ *Ibid*, p.6.

¹⁷⁴ Declaration Renouncing the Use, in Time of War, of Explosive Projectiles under 400 Grams Weight, St.Petersburg, 29 November/11 December 1868. [Online: Web] Accessed on 20 December 2009, URL:<http://www.icrc.org/ihl.nsf/INTRO/135?OpenDocument>.

¹⁷⁵ Project of an International Declaration Concerning the Laws and Customs of War, Brussels, 27 August 1874. [Online: Web] Accessed on 22 December, 2009, URL: <http://www.icrc.org>.

¹⁷⁶“ Landmines: A Deadly Legacy,” (1993), The Arms Project of Human Rights Watch and Physician for Human Rights, New York Human Rights Watch, p.314.

¹⁷⁷ Maresca, Louis and Stuart, Maslen. (2000), n.4, pp.11-12.

The introduction of the “Martens Clause” as preamble is remarkable step in the 1899 Hague convention. The Martens Clause states that: “until a more complete code of the laws of war is issued, the high contracting parties think it right to declare that in case not included in the regulations adopted by them, populations and belligerents remain under the protection and empires of the principles of international law, as they result from the, usages established from the civilised nation, from the laws of humanity, and the requirement of the public conscience.”¹⁷⁸

The prime quarter of international humanitarian law is contained in the Hague Convention of 1899 and 1907, in the four Geneva Conventions of 1949 and in the two Protocols additional to the Geneva Conventions, adopted in 1977. Article 23(e) of the Hague Convention of 18 October 1907, states that, it is forbidden “to employ arms, projectiles or material calculated to cause unnecessary suffering.”¹⁷⁹ Declaration IV (3) prohibits the use of bullets which expand or flatten easily in the human body; such has bullets with hard cover and “dum dum” bullets which causes injuries similar to that of those caused by the lightweight projectiles.¹⁸⁰ Declaration IV (2) bans the use of projectiles diffusing asphyxiating or deleterious gases.¹⁸¹ This article reflected the first step taken in order to prohibit the use of gas warfare. Article 25 states that “attack or bombardment, by whatever means, of towns, villages, dwellings or buildings which are undefended is prohibited.”¹⁸² Further, Article 51, Protocol I 1977 addition to the Geneva Convention of 1949 codifies that “parties to a conflict must always distinguish between civilians and combatants. Civilians may not be directly attacked and indiscriminate attacks and the use of indiscriminate weapons are prohibited”.¹⁸³ The initiative taken by the Hague peace conference concerning the prohibition of the asphyxiating gases resulted in the declaration of the 1925 Geneva protocol on poisonous and asphyxiating gases. “The protocol

¹⁷⁸ Preamble 1899, Hague Convention with respect to the laws of war on land The Hague (II), The Hague, 29 July 1899. [Online: Web] Accessed on 16 January, 2010, <http://www.icrc.org/ihl.nsf/WebART/150-110001?OpenDocument>.

¹⁷⁹ Hingorani R.C. (2000), “Plea for a Ban on Landmines” in Christopher S Raj (eds.) *Stalking Terror Landmines in Peace and in War*, Delhi, Wordsmith, p.164.

¹⁸⁰ Maresca Louis and Stuart Maslen, n.4, p.12.

¹⁸¹ Declaration IV (2), concerning Asphyxiating gases, The Hague, 29 July 1899, [Online: Web] Accessed on 16 January, 2010, <http://www.icrc.org/ihl.nsf/INTRO/165?OpenDocument>

¹⁸² Maresca Louis and Stuart Maslen, n.4, p.164.

¹⁸³ Raj, Christopher S. (2000), “Landmine Ban: A Poser to the World Conscience” in Christopher S Raj (eds.), *Stalking Terror Landmines in Peace and in War*, Delhi, Wordsmith, p.16.

banned the ‘use in war of asphyxiating, poisonous or other gases and of all analogous liquids, materials or devices along with the use of bacteriological methods of warfare.’¹⁸⁴

The experiences of the World War II, with its quantum leap in weapons technology had graphically demonstrated the need for strengthened legal protection of the civilian population against modern warfare and its many excesses.¹⁸⁵ It was in 1950, the International Committee of Red Cross (ICRC) recognised landmines as a precarious weapon causing an everlasting impact on the lives of the victims. The first effort made by ICRC in order to limit the consequence of landmines was the ICRCs *Draft Rules for the Limitation of the Dangers Incurred by the civilian population in the time of war* published in 1956.¹⁸⁶ The proposed draft was concerned with the rapid technological advancement in the field of arms and ammunitions and the severe damage caused on the civilians especially during the Second World War. The ICRC 1955 draft entitled *Draft Rules for the Protection of the Civilian Population from the Dangers of Indiscriminate Warfare* contained rules and regulations on the modes and methods of warfare not specifically pertaining to the landmines. The 1955 draft was presented before the 19th International Conference of Red Cross held in New Delhi in October 1977. Unfortunately, the 1955 draft failed to gain the majority consensus. The 1968 International Conference for Human rights held in Tehran and the resolution adopted by the UN General Assembly entitled *Respect for Human Rights in Armed Conflicts* showed renewed interests of concerned groups on the issue of human rights and the impact of war on the civilians.

It was only in 1972 that the international community concerned with weapon conventions started concentrating on production as well as stockpiling of weapons. The 1972 Biological Weapon Convention was the first international agreement banning not the use, but the production, stockpiling and transfer of a whole category of weapons.¹⁸⁷ However this Convention lacked an effective verification mechanism. Considering the absence of effective regulations on conventional weapons including landmines and to revive the existing laws, the Swiss government in 1970’s convened a diplomatic conference. “The diplomatic conference

¹⁸⁴Maresca Louis and Stuart Maslen, n.4, pp.13-14.

¹⁸⁵Maslen, Stuart. (2001), n.1, p.25.

¹⁸⁶Opcit, 2000, n.4, p.15.

¹⁸⁷“Landmines: A Deadly Legacy,” (1993), The Arms Project of Human Rights Watch and Physician for Human Rights, New York Human Rights Watch, p.316.

on the Reaffirmation and Development of International Humanitarian Law Applicable in Armed Conflicts (1974-1977) sought to increase the protection afforded to the victims of armed conflicts, particularly against the effect of hostilities, and resulted in the adoption of the two additional protocols of the Geneva Convention of 1949.”¹⁸⁸

Three expert meetings were convened from 1973 to 1977:

1. Expert Meeting on Weapons that May Cause Unnecessary Suffering or have Indiscriminate Effects held in Geneva.
2. Conference on the Government Experts on the Use of Certain Conventional Weapons.
3. Conference of Government experts on the use of certain conventional Weapons.¹⁸⁹

The two meeting on the conventional weapons was attended by the twenty one countries including representatives of UN and various other non-governmental organisations. The experts categorised the weapons based on its mode of production like explosive, penetrating, incendiary nuclear, biological and chemical. “The experts discussed legal issues governing means of warfare, and the possible regulation of weapons of mass destruction, small calibre projectiles, blast and fragmentation weapons, incendiary weapons and potential future weapons particularly laser weapons.”¹⁹⁰ The severe threat posed by the landmines especially to the civilians in the conflict hit areas was first seriously recognised and taken into consideration by the international commune through the Conventions on Conventional Weapons United Nations Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed to be Excessively Injurious or Have Indiscriminate Effects (CCW).

The problems posed by APMs contamination and use, were first formally discussed at the international level at the Conference of Governmental Experts on the Use of Certain Conventional Weapons (Governmental Experts Conference), in 1974 in Lucerne. Convened by the ICRC, the need for specific legal control of both manually placed and remotely delivered landmines was discussed at the meet. Efforts were made to explore possible bans or restrictions on several antipersonnel weapons that have gained international notoriety during

¹⁸⁸ Maresca Louis and Stuart Maslen, n.4, p.19.

Geneva Convention 1949, the two additional protocols deal with the treatment of the civilians during the wartime. The protocol concentrates on the protection of the victims of international armed conflicts and non international armed conflicts.

¹⁸⁹ Ibid, pp.19- 20.

¹⁹⁰ Maslen, Stuart. (2001), n.1, p.27.

the Vietnam conflict. With the lack of consensus in the Lucerne conference a second session conference was held in Lugarno in 1976. Various issues related to the definitions of mines, mapping and marking in mined areas, restrictions on the use of remotely delivered mines were discussed. Consensus was reached on only three proposals: a ban on undetectable fragments, restrictions on remotely delivered mines and a prohibition on incendiary attacks against civilian areas. However, priority was placed on universal acceptance of minimum standards rather than pursuit of stringent prohibitions unlikely to attract broad support.¹⁹¹

In 1977, the United Nations Diplomatic Conference on the Reaffirmation and Development of International Humanitarian law created an adhoc committee to consider the formulation on conventional weapons which are excessively injurious and indiscriminate. The General Assembly in turn convened two preparatory conferences in 1978 and 1979 further publishing the report in May 1979 which emphasised on regulation on the use of landmines.¹⁹² Ultimately, after the prolonged discussions, the Convention on Conventional Weapons (CCW) was signed in 1980. The Convention was negotiated within the framework of the UN's Conference on Disarmament (CD). Convention on Conventional Weapons is formally known as the *Convention on Prohibition or Restriction on the Use of Certain Conventional Weapons may be deemed to be excessively Injurious or to have Indiscriminate Effects*. The CCW was the first convention regulating the use of conventional weapons in the Post World War period. The 1980 Convention's Protocol II deals with prohibition or Restrictions on the Use of Mines, Booby Traps and other Devices. It defines mines as "munitions designed to be placed under, on or near the ground or other surface area to be exploded by the presence, proximity or contact of a person or a vehicle" and an anti-personnel mine as a "mine primarily designed to be exploded by the presence, proximity or contact of a person and that will incapacitate, injure or kill one or more persons".¹⁹³ Booby traps include "any device or material which is designed or constructed, or adapted to kill or injure, and which functions unexpectedly when a person disturbs or approaches an apparently harmless object or performs an apparently safe act".¹⁹⁴ Other devices are defined as "manually emplaced munitions and devices including improvised explosive devices designed to kill, injure or

¹⁹¹ Aubert, Maurice. "The ICRC and the problem of excessively injurious weapon", *International Review of the Red Cross*, no.279 (August 1990), pp.477-97

¹⁹² Raj, Christopher S. (2000), n.20, p.16.

¹⁹³ Article 2(3), Amended Protocol II of Convention on Conventional Weapons, 1980.

¹⁹⁴ Article 2(5), Amended Protocol II of Convention on Conventional Weapons, 1980.

damage and which are actuated manually, by remote control or automatically after a lapse of time”.¹⁹⁵

Primarily the convention was more apprehensive about prohibition of these indiscriminate weapons rather than complete ban. The Landmine Protocol, on the one hand, puts forward the rules to protect the civilians from mine attacks, regulations on remotely delivered mines and booby traps, regulations on the deployment of mines but on the other hand the protocol applies only to international armed conflicts including few conflicts related to the national liberation. The CCW failed to include the provisions related to the restrictions on the use of explosives like fuel air explosive and small calibre bullets.¹⁹⁶ It also lacked the verification methods regarding the use of landmines by various states and lacked the capability to penalise the countries violating the clauses. The CCW was undoubtedly ineffective in reducing the indiscriminate effect of landmines in the highly mine affected areas. It is necessarily due to the limited acceptance of the convention by the states, the provision of the CCW were not respected by the significant part of the international community and were limited to international armed conflict, and the absence of implementation, consultation and compliance monitoring provision.¹⁹⁷ The Landmine Protocol failed to address the issue of landmine export primarily concentrating on the restriction on the use of landmines rather than the ban on landmines. Although the issue of mine clearance has been highlighted in the Article 10 and 11, it failed to tackle the indiscriminate effects of landmines especially in the case of prolonged conflicts. Many of the concerned groups felt that military consideration have been given higher precedence compared to the humanitarian issue. Unfortunately the treaty was not stern on the problems of landmine. The treaty required a serious process of amendment so that the issue of landmines would be addressed with immense apprehension.

It was only after the end of the Cold War that the problems of landmines were substantially addressed in the disarmament forum. There was a significant shift in the attitudes towards the elimination of APM's in 1995-1996 in the wake of the Review Conference of the Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed to Be Excessively Injurious or to Have Indiscriminate Effects (CCW Convention)

¹⁹⁵ Joseph, Mallika. (2000), *Improvised Explosive Device- V: IEDs and Landmine Treaties*, Institute of Peace and Conflict Studies, n.334, p.1.

¹⁹⁶ Mathews, Robert J. (2001) “1980 Convention on Certain Conventional Weapons: A useful Framework despite Earlier Disappointment”, *IRRC*, 83(844), p-996.

¹⁹⁷ *Ibid*, p.998.

often referred to as the “Inhuman Weapon Convention.”¹⁹⁸ The 1980 Convention has sidelined the humanitarian issues associated with landmines. A blatant disregard for humanitarian principles on the part of many warring parties, coupled with severe weakness in the 1980 Conventional Weapons Conventions, and a lack of international response have led to a situation which threatens the credibility of both the convention and broader humanitarian principles.¹⁹⁹

Majority of the conventions and protocols dealt with the problems of landmines only through the defence point of view rather than humanitarian. Compared to the other controversial weapons, such as biological and chemical weapons, poisonous gas and nuclear weapons, the legality of landmine use remained an obscure issue for governmental policy makers until the early 1990s.²⁰⁰ The continuous increase in the number of people affected by the landmines brought the issue into the forefront. With a casualty rate of approximately 70 people killed or injured per day i.e. one person every 15 minutes, 26000 people per year, the humanitarian crisis posed by APMs acquired enormous global proportion.²⁰¹

During 1990s anti-personnel landmines became the object of vigorous transnational campaign. The origin of the campaign to eliminate landmines can be traced back to the International Committee of the Red Cross (ICRC). The increase in the number of landmine victims all over the world especially in the post conflict zones persuaded ICRC to take up the landmine issue to the forefront. In 1992 a combined alliance of ICRC and various other NGOs came together and initiated the landmine ban movement popularly known as the International Campaign to Ban Landmines (ICBL). Originally the issue was one of high politics, concerned only with state security, and precluded any civil society involvement. At the end of the cold war, the security discourse broadened, providing room for a counter discourse that portrayed landmines as a humanitarian issue.²⁰² Tremendous efforts have been made by the non-governmental organisations to take the issue of landmine catastrophe in the international political agenda with special consideration on the humanitarian crisis caused by

¹⁹⁸ Lachowski, Zdzislaw. (1995), “The CD and the Ottawa Process: Rivals or Partners”, *UNIDIR Newsletter*, 28(29), p.10

¹⁹⁹ Beck Louise Doswald and Peter Herby. (1995), n.9, p.5.

²⁰⁰ Rutherford, Kenneth R. (2000), “The Evolving Arms Control Agenda: Implications of the NGO’s in banning Antipersonnel Landmines,” *World Politics*, 53(1), p.80.

²⁰¹ Cameron. Maxwell A, Lawson Robert J and Towline, Brian W. “To Walk Without Fear”, Maxwell A Cameron, Robert J Lawson and Brian W. Towlin (ed.), *To Walk Without Fear: The Global Movement To Ban Landmines* (London 1998), p.2.

²⁰² Kitchen, Veronica. (2001-2002), “From Rhetoric to Reality: Canada, the United States and the Ottawa Process to ban landmines,” *International Journal*, No 1, p.8.

the landmines. The logic for this was simple “educate the public and public officials about the landmine crisis to change policies nationally and internationally”.²⁰³ Numerous NGOs came up to support the issue of landmines with divergent views, Human Rights Watch and ICRC regarded landmines as the humanitarian issue whereas Medico International, Physician for Human Rights viewed it in a medical perspective and lastly organisations like Vietnam Veterans of American Foundation saw it through the lens of a socio-economic development.²⁰⁴ At the end of the day, every organisation part of the landmine ban movement was genuinely concerned towards the total ban on landmines.

There was an unprecedented cooperation between the governments and the non-governmental organisations to make landmines an issue of highest international concern. On the other hand, the NGOs helped to articulate and codify the landmine issue into international law by changing how governments perceived the legality of landmines and the effects of landmine use.²⁰⁵ The effort led by the NGOs was primarily humanitarian in nature. One of the foremost implications of the NGOs leading the landmine issue is that the NGOs contributed to set the international political agenda, especially the legal prohibitions on weapons that cause humanitarian harm, have a dubious military utility, and in turn effect state behavioural changes.²⁰⁶ The United States has been a central actor in the discussions on landmines but prior to US the ‘Women’s Commission for Refugee Women and Children’ called for a ban on landmines followed by Asia Watch and Physicians for Human Rights. Robert O. Muller, the founder of Vietnam Veterans of America Foundation (VVAFA) and Thomas Gebauer of the German aid group Medico International (MI) along with various other NGOs started an international campaign to bring an international ban on APMs. The leading NGOs part of the campaign included Human Rights Watch, Mine Advisory Group (UK), Physicians for Human Rights (USA). ICBL launched a worldwide campaign to ban the production, stockpiling, transfer and use of Anti-personnel landmines.

The first official and unilateral step was taken by US Senator Patrick J. Leahy and Congressman Lane Evans, who introduced a one year moratorium on the export of APMs in

²⁰³ Williams Jody and Goose Stephen. “The International Campaign to Ban Landmines” in Maxwell A Cameron, Robert J Lawson and Brain W.Towlin (ed.,) (1998), *To Walk Without fear: The Global Movement To Ban Landmines* London, p.22.

²⁰⁴ Anderson, Kenneth. (2000), “The Ottawa Convention Banning Landmines, The Role of International Non-Governmental Organisations and the Idea of International Civil Society,” *EJI*, 11(1), p.105.

See Also, Hansen, Toran. (2004), *The Campaign to Ban Landmines*, *Peace Review*, 16(3), p.3.

²⁰⁵ Kitchen, Veronica. (2001-2002), n. 39, p.76.

²⁰⁶ *Ibid*, p.6.

1992.²⁰⁷ Senator Patrick Leahy of US took up issue of landmines to the forefront, authoring the first law pertaining to the landmines which specifically prohibited the export of landmines. The US Landmine Moratorium Act also known as the Leahy Evans Amendment Act came into force on October 23, 1992. This legislation was one of its kinds pertaining to the legislations related to arms control. The main objective of the Leahy Amendment was to forbid the sale or the financing of the sale of landmines, further prohibiting the transfer of landmines and their licensing for exports.²⁰⁸ It also imposed a one year export moratorium excluding the international borders and the demilitarised zones. The one year export moratorium was further extended to three years in July 1993 by passing legislation. Leahy emphasized the need to have systematic monitoring programmes to keep a check on the national stockpiles, types of mines manufactured, notifications of sales and transfers. On September 14, 1993, the US Senate passed the Defence Authorisation Bill further resulting in an amendment which sanctioned \$10 million for humanitarian programmes particularly for mine clearance. It also urged the US president to support the international agreement concerned towards landmine ban and it is in this background that in 1994, the then US president Bill Clinton approved the “eventual elimination” of APMs. The response to the moratorium movement has been impressive. Countries including Argentina, Belgium, Canada, Czech Republic, France, Germany, Greece, Israel, Italy, Poland, Slovak Republic, South Africa, Spain, and Sweden announced export moratorium.

Handicap international encouraged the French government to convene a review conference of CCW in 1993. The French government initiated the UN General Secretary to convene the First Review Conference of the CCW. Following were the proposed amendments to the Protocol II:

- Strengthening restrictions on the use of anti-personnel mines and, in particular, those without neutralising and self destruction mechanism.
- Considering the establishment of the verification system for provisions of this protocol.

²⁰⁷ Raj, Christopher S. (2000), n.20, p.18.

²⁰⁸ “Landmines: A Deadly Legacy,” (1993), The Arms Project of Human Rights Watch and Physician for Human Rights, New York Human Rights Watch, p.319-320.

- Studying opportunities for broadening the scope of this protocol to cover armed conflicts that are not of an international character.²⁰⁹

The first session of the review conference was held in Vienna from September 25 to October 13, 1993. The review conference was attended by 44 state parties and 40 non-state parties. Various international organisations and agencies like International Committee of Red Cross (ICRC) and United Nations Children’s Emergency Fund (UNICEF) were associated with the review conference. “The first achievement was the agreement, during the first formal session in November 1995, on a protocol prohibiting blinding laser weapons, the future Protocol IV. This agreement was regarded as a landmark in arms control history because the prohibition was negotiated before the weapons had been deployed in battle.²¹⁰ There were clear cut differences on the issue of ban on landmines among various nations participating in the review conference. The parties in the Review Conference were divided on two lines: one supported the total ban of the anti-personnel mines and the other opposed the total prohibition. China played an overriding role in the review conference with its veto power. Limited numbers of mine affected countries are parties to this convention with the notable exception of Cambodia.²¹¹ Unfortunately, the conference had to end without reaching the majority consensus.

On 3 May 1996, the state parties to the CCW adopted the ‘Protocol on Prohibitions or Restrictions on the Use of Mines, Booby Traps and other Devices’. Protocol II was envisaged to enter into force 180 days after the twenty state parties had provided notification of their objective to be bound by the agreement.²¹² The landmines convention was also extended to international as well as non international conflicts. The foremost provisions of the revised protocol II of 1996 are:

- Mines are directed only at military objectives. Indiscriminate use is prohibited and all feasible precautions must be taken to protect the civilians.
- Mines must be cleared by those parties who lay them.
- Records and maps of the minefield locations have to be maintained.

²⁰⁹ Maslen, Stuart. (2001), n.1, p.48.

²¹⁰ Mathews, Robert J. (2001), n. 33, p.999.

²¹¹ Carstairs, Tim (1997),” Diplomacy, International Law and the Civic Campaign against Landmines”, *International Peacekeeping*, 4(3), London, p.106.

²¹² Raj, Christopher S. (2000), n.20, p.19.

- APMs used in wars and conflicts have to be detectable in order to facilitate the mine clearance.
- The transfer of non-detectable APMs is prohibited.
- Long lived mines can only be used in marked, guarded and fenced minefields.
- Mines used outside marked, guarded and fenced areas must self destruct within thirty days (90 per cent reliability) and self deactivate within 120 days (99.9 per cent reliability).
- Remotely delivered mines may not be used unless their location is accurately recorded or they are fitted with an effective neutralising mechanism.
- ICRC, Red Cross and Red Crescent and other humanitarian workers must receive protection. Personnel in charge of the mine clearance mission has to be provided with information on mine fields.
- States are required to enact penal legislation to punish serious violations of the Protocol.
- Annual consultation will be held among parties to the Protocol to review its operation.²¹³

The landmine convention extended to the internal conflicts, non-detectable, anti-mine-clearer and anti-personnel mines were prohibited further restricting the use of Booby Traps and other devices which are indiscriminate in nature. Air or artillery-scattered anti-personnel mines had to be equipped with self-destruct and self-deactivation system, tough provisions were implemented for marking and recording of mines and protection of the civilians in mine affected areas. Although there have been considerable changes in the 1980 CCW Convention it has met with serious criticisms. Unfortunately the amended Protocol II has only remained on documents without an effective implementation. In spite of the positive amendments the Protocol II is paralysed by certain limitations. States like UK dominated the discussions of the review conference to suit their own military, commercial or political purposes. The definition of anti-personnel mines was amended to exclude mines that are classified (by

²¹³ Ibid, pp.19-20.

manufacturers and exporter and user states) as having different primary design. For example in theory and probably in practice, anti-airfield mines or anti-personnel effects could now be outside the scope of the treaty because they could be classified differently with the 'primary' designed purpose of, for instance, runway denial.²¹⁴ This excludes the anti-tank mines which come under anti-personnel category. The absence of restrictions on the anti-tank and anti-vehicle mines continues to pose a threat.²¹⁵ The revised protocol though pointed out landmines has indiscriminate weapons, in a way encouraged the use of smart mines that self-destruct and self deactivate. The provisions also include a 'transition period' of nine years before the final implementation, thereby allowing for use till that time, which would automatically increase the toll of the casualties.²¹⁶ On the other hand, issues related to the production of the landmines have not been addressed. Countries like China, Russia and Pakistan are the largest producers of dumb mines. These countries being the largest producers of dumb mines will lose out more compared to the advanced countries in the West which are the leading producers of the smart mines.

Leahy Evans Amendment was a model to various other countries to announce a moratorium on landmine exports. In response to the unilateral moratorium passed by the US, number of countries announced their moratorium. An exceptional initiative was taken by the European government by passing a resolution which demanded that as an emergency measure all the member states should declare five year moratorium on the exports of the mines and on the training to place them.²¹⁷ Followed by the moratorium, twelve European member states came up with the draft resolution in the United Nations General Assembly amplifying the adverse effect of landmines and urged the UN to implement effective measures to resolve the problems faced by the non-combatants. Since then eighteen other nations have announced moratorium: Argentina, Belgium, Canada, the Czech Republic, France, Germany, Greece, Israel, Italy, Netherlands, Poland, Russia, Slovakia, South Africa, Spain, Sweden, Switzerland and the United Kingdom.²¹⁸ France, Belgium, and United Kingdom proposed the UN General Secretary for a review conference in order to modify the weapon convention to ban the landmine trade. France also submitted a draft entitled "Consequences of Armed

²¹⁴ Carstairs, Tim, (1997), n.48, p.107.

²¹⁵ Sundararaman. Shankari (1997), "Landmines: To Ban or Not Ban", *Strategic Analysis*, 7(47), p.1127.

²¹⁶ Ibid, p.1127.

²¹⁷ Ibid, p.325.

²¹⁸ Goose, Stephen. (1994-1995), "The Economics of Landmines", *UNIDIR Newsletter*, 28(29), p.15.

Conflicts on Children lives” to UN Commission on Human Rights considering the serious effect caused by landmines especially to the children in conflict hit zones.

Finally a resolution was introduced in the 48th session of the General Assembly urging states to implement moratoria on the export of anti-personnel landmines (A/Res/48/75 k of 16 December 1993).²¹⁹ Various likeminded states made their unbending efforts to stigmatise the use of landmines and works towards the global ban on landmines. In March 1995 Belgium became the first country to pass a domestic law resulting in a comprehensive ban on landmine use, production, exports. The Ministry of Defence assured that Belgium would destroy all the existing stockpiles. In 1995 United Kingdom adopted the joint action of the council of the European Union on the APMs.²²⁰ The main objective of this action was to ban the exports of mines specially those which are non self destructing and undetectable. This particular action intended to restrict the export of self destructing mines to those countries which are signatories to the United Nations Convention further extending it to all kinds of APMs.

In spite of the UN initiative to amend the protocol II ICBL felt that a non-consensus negotiating forum outside the auspices of the UN would provide a better avenue to achieve a global ban on landmines.²²¹ In this ambiguous backdrop of implementing a revised convention on landmines Canada with a coalition of forty NGOs comprising United Nations Association of Canada, Physician for Global Survival, CARE, CUSO, OXFAM America, OXFAM United Kingdom, Project Ploughshares, formed the Mine Action Canada (MAC) to pursue the agenda to ban the use of landmines. This alliance further led to the creation of the Ottawa core group. The leading NGOs came up with detailed report of the landmine afflicted countries like Angola, El Salvador, Nicaragua, Kurdistan, Cambodia, Mozambique and Somalia.²²² The NGOs also issued petitions to the parliaments to reconsider the issue of landmines as a matter of highest priority. The other NGOs involved in the landmine ban movement were the Human Rights Council of Australia, British Refugee Council, Campaign against Arms Trade (UK), International Peace Bureau (Switzerland), National Peace Council

²¹⁹ Williams, Jody. (1994-1995), “National Initiatives and Legislation to Limit and Restrict the Production, Use and Transfer of Landmines”, *UNIDIR Newsletter*, 28(29), p.11.

²²⁰ Chaloner, Eddie, and Steve, Mannion. (1997), “Total Ban on Landmines is Unnecessary,” *British Medical Journal*, 315 (7210), p.1465.

²²¹ Brem, Stefan and Ken Rutherford. (2001), “Walking Together or Divided Agenda? Comparing Landmines and Small-Arms Campaigns”, *Security Dialogue*, 32(2), p.171.

²²² Williams, Jody. (1995), “Landmines and Measure to Eliminate Them”, *International Review of the Red Cross*, 35(307), p.383.

(UK), Swedish Red Cross, United Nation Association of New Zealand, Monitese (Italy), Women's Commission for Refugee Women and Children of the International Rescue Committee (US), Cambodia Trust (UK), Lutheran World Federation and World Vision International (Australia, UK). Landmine campaign movement combined with almost 350 NGOs from all over the world promoted the campaign called 'Joint Call to Ban Anti-Personnel Landmines'. This was a twofold call as on the one hand it concentrated on the international ban on the use, production, stockpiling and sale, transfer or export of anti-personnel mines, and, on the other hand, it worked for contributions from countries responsible for the production and dissemination of anti-personnel mines to the international fund administered by the UN and to other programmes to promote and finance mine victim assistance and landmine awareness, clearance and eradication worldwide.²²³

A concrete effort was initiated by Canada in order to formulate a legitimate and valid regulation to ban the use of landmines. Canada presented a way out of the political mire by putting forward a fair platform for discussions related to the issues of landmines. Canadian foreign minister Andrew Ouellet suggested that Canadian foreign policy has to be altered so that there is a genuine focus on issues related to landmines. Unfortunately this proposal given by Ouellet was rejected with typical defence argument that landmines cannot be eliminated until there is an effective alternative. In 1996, Lloyd Axworthy who replaced Ouellet brought the landmine issue into the forefront of the Canadian foreign policy. The group originated from a meeting in early 1996 between Austria, Belgium, Canada, Denmark, Ireland, Mexico, Norway, Switzerland, the ICBL and the ICRC, to discuss the possibility of achieving the anti-personnel Landmines ban that the United Nations Conference on Disarmament (UNCD) was unwilling to address.²²⁴ Mine Action Canada's primary objective included to bring about a legislation in Canada to ban the use, production, stockpiling, sale, transfer or export of APM's and the destruction of existing stockpiles; to support humanitarian mine clearance effort; to provide assistance to victims of landmines; to exchange information at the international levels with the ICBL to promote the global ban.²²⁵ From October 3 to 5, 1996, the first international strategy conference to reach a global ban on landmines was held in Ottawa. The purpose of the conference "was to catalyze practical efforts to move towards a ban and create partnerships between states, international organisations and agencies and

²²³ Ibid. pp.379-380.

²²⁴ Behringer, Ronald M. (1999), "Middle Power Leadership on the Human Security Agenda", *Cooperation and Conflict*, 40(3), p.318.

²²⁵ Raj, Christopher S. (2000), n.20, p.23.

NGO's essential to building the political will to achieve a global ban on anti-personnel mines".²²⁶ Canada invited only those countries which are prepared to sign a comprehensive ban. It was made clear that the nations will not be permitted to ratify it with treaty busting exemptions or delays. Second, as the treaty was being negotiated outside the United Nations, the initiative will not be bound by the rules of consensus that have allowed pro-landmine nations to drive diplomacy to its lowest common denominator in the past.²²⁷

The Canadian Department of National Defence and Department of Foreign Affairs and International Trade was assigned the responsibility to deal with the issue of landmines. Due to the disappointing developments in the CCW conferences Canada along with ICRC and United Nations arranged an international meeting in Ottawa with the core objective of global ban on landmines. Around fifty countries including twenty four observer countries were part of this international discussion endorsing the Ottawa Declaration. Besides the participating states UN, UNICEF, the UN Department of Humanitarian Affairs, the Federation of Red Cross Societies was part of this discussion. The Ottawa declaration called for "the earliest possible conclusion of a legally binding international agreement to ban anti-personnel mines; progressive reduction in new deployments of anti-personnel mines with the urgent objective of halting all new deployments of anti-personnel mines; support for United Nations General Assembly General assembly 51 resolution calling upon member states, inter alia, to implement national moratoria, bans or restrictions, particularly on the operational use and the transfer of anti-personnel mines at the earliest possible date; regional and sub-regional activities in support of global ban on anti-personnel mines."²²⁸

Countries concerned with the issue of banning landmines can be divided into various groups. The Ottawa group included countries like Angola, Cambodia, Bosnia, and South Africa and many of the European, African and some of the Asian countries.²²⁹ The CD and Ottawa group, viewing the Geneva-based Conference on Disarmament and Ottawa as complementary approaches with the CD as the forum of first choice, includes Australia and the United States.²³⁰ On the other hand countries like South Korea and Srilanka deviated from banning

²²⁶ Hampson, Fen Osler and Holly Ried. (2003), "Coalition Diversity and Normative Legitimacy in Human Security" Negotiations, *International Negotiations*, (8), p.17.

²²⁷ Burkhalter, Holly. (1997), "Phantom Pain: Banning Landmines", *World Policy Journal*, 14(2), p-31.

²²⁷ Opcit, n.63, p.18.

²²⁹ Thakur, Ramesh. (1998), "Anti-Personnel Landmines," *Global Change, Peace & Security*, 10(1), p.5.

²³⁰ Ibid, p.5.

landmines as they were highly conflict prone zone. Contrary to this certain countries like Austria, France, China, India, Iran, Libya, Pakistan, Russia Italy, Russia and Japan preferred to stay on the platform of Conference on disarmament (CD) to address the issue of landmines. CD, established in 1979, was the only international forum for negotiating issues on disarmament with a main objective of having comprehensive programmes on disarmament. Thus in 1997, the activities towards a ban on landmines could be seen to follow two tracks, broadly distinguished as an “arms control” (CD) approach and a “humanitarian” (Ottawa) approach.²³¹ On January 17 1997, the United States unexpectedly decided to seek to initiate negotiations on a worldwide ban in the 61 member Conference on Disarmament, which includes all of the major producers and exporters of landmines, rather than pursue it within the Ottawa process. The United States also took a further step, announcing that it would permanently ban the export and transfer of anti-personnel landmines and that its stockpile of 11 million landmines would be maintained at the current level.²³²

The provisions of CD did not focus on the total ban on landmines. The countries part of the CD like China, Srilanka, United Kingdom, and United States stressed that the issues related to the demining and civilian assistance has to be given high priority. In this debate of providing high priority on the issues related to civilian assistance and demining the move towards the global ban on landmine was completely sidelined. China and Russia being the major producers of the landmines favoured the CD process but supported the idea of a complete prohibition only through a series of agreed time stages enacted within the framework of the CD.²³³ India, Cuba, Turkey and several other African countries accepted the proposals under the CD emphasizing the importance of landmines for legitimate defence purposes with a special concern on the existing humanitarian crisis caused by the landmines. The United States has always been reluctant with regard to the policies on landmine ban; as a result it was willing to discuss the issue of landmines on the platform of CD rather than Ottawa process. US preferred the regulatory path to achieve restrictions on landmine use through the UN and its specialised agencies, specifically the CD.²³⁴ The traditional process in

²³¹ Raj, Christopher S. (2000), n.20, p.30.

²³² Axworthy, Llyod. (1995), “The Ottawa Process: to December and Beyond”, *UNIDIR Newsletter*, 28(29), p.11.

²³³ Sundararaman. Shankari (1997), n.52, p.1129.

²³⁴ Kitchen, Veronica. (2001-2002), n. 39, p .51.

the CD meant that the US could ensure that any treaty would cater to American needs or it would not pass.²³⁵

The process of implementing an effective law on landmines was considerably slow and unclear on the platform of CD. As the CD shared an extraordinary relationship with the UN every diplomatic discussion on landmines were guided by the self-centred policies of the permanent members of the Security Council. Though CD followed its own agenda due to its affiliation with the UN it is bound to take the recommendations of the UNGA and its member countries into consideration. Every multilateral disarmament agreement was concluded on the basis of consensus which in turn provided special powers to the permanent members to use their Veto power. The issue of landmines in CD between the permanent members of the Security Council and the rest of the likeminded states who strongly believed in the elimination of the landmines, was more of a power politics rather than genuine disarmament negotiation. The leading actors on the CD platform in every way possible created a stumbling block in making the landmine ban a global international agreement. Though comprehensive programme on disarmament is the foremost agenda of CD, the issue of landmines was not placed in the official agenda of CD in 1997. As Dolan and Hunt explain, "The rapture of the landmines issue involved a complex arrangement of states - some who feared that the CD derail the Ottawa process, some who used the CD to deflect pressure to sign the Ottawa Convention, and yet others who wanted nuclear disarmament to be the top priority of the CD. Even a single country party to the CD can prevent from taking any kind of action as it is based on consensus. In the end, the CD track ended in a deadlock. The closest the CD came to agreement was the appointment of the Ambassador John Campbell of Australia as special coordinator on landmines, essentially to conduct talks about having talks."²³⁶

In spite of these obstacles the Ottawa process gained a massive momentum on the international forum. Canada preferred a multilateral negotiation which gave it a strong diplomatic weight. Austria was given the responsibility to draw a draft for the landmine treaty. On February 12-14, 1997, Austria hosted the first meeting of experts in Vienna.²³⁷ Around 111 nations were part of the draft discussion excluding countries like India, China and Pakistan. One of the central reasons for countries like India, Pakistan, Srilanka and South Korea for not coming to a consensus in the Ottawa discussions was the issue of national

²³⁵ Ibid, .51.

²³⁶ Ibid, p.19.

²³⁷ Maresca, Louis and Stuart, Maslen. (2000), n.4, p.501.

security. The following countries maintained that landmines occupied an essential position in the defence especially for countries having long borders and terrain. In 1997 Japan hosted the conference in Tokyo which was attended by twenty seven countries and various other international organisations including the European Union.²³⁸ The conference mainly focussed on the mine action programmes in particular with the peace process operations. It also emphasized on the up gradation of the demining operations like field sensor technologies and protective clothing. The UN Department of Humanitarian Affairs (UNDHA) has a coordinator for the transfer of technology and information pertaining to the demining process. This was further followed by meeting in Konigswinter, Germany with the main objective of strengthening the landmine ban treaty drafted by Austria.²³⁹ The draft failed to put forward the verification provisions. Germany came up with the option paper on verification, which included tried and tested elements from arms control treaties (information exchange, routine and challenge inspections).²⁴⁰ Experts from almost 111 states met in a conference in Vienna to examine the draft prepared by Austria. Major South Asian countries like India and Pakistan were absent in the conference. The most contentious point in the Austrian draft was the definition of Anti-personnel landmines and the mechanisms to verify and implement the intended ban. It also threw light on the issue of acquisition or retention of landmines in “small amounts”²⁴¹ Sri Lanka, Cuba, Republic of Korea maintained that landmines constitute a significant place in the national defence.

In response to various developments on landmine ban various countries came to the forefront to initiate the movement. The Organisation of American States (OAS), meeting in Peru, and the Organisation of African Unity (OAU) passed resolutions calling for a ban on AP mines and committing to AP mine-free zones. In this background, the OAU in collaboration with the South African government convened a conference ‘Towards a Landmine Free Africa: The OAU and the Legacy of Anti-Personnel Mines’. Elimination of landmines in the Mine affected areas of Africa was the main focus of the conference. Canada and Mexico associated with OAS to work for a mine-free zone and strictly implement mine clearance resolutions. US along with the Countries belonging to the OAS were instrumental in funding the mine

²³⁸ Raj, Christopher S. (2000), “Landmine Ban: A Poser to the World Conscience” in Christopher S Raj (eds.), *Stalking Terror Landmines in Peace and in War*, Delhi, Wordsmith, p.16.

²³⁹ Ibid, p.16.

²⁴⁰ Axworthy, Llyod. (1995), n.69, p.8.

²⁴¹ Zdzislaw Lachowski. (1995), “The CD and the Ottawa Process: Rivals or Partners”, *UNIDIR Newsletter*, 28(29),p.13.

clearance operations. France, Germany, Japan, Spain, Sweden, Switzerland and UK provided both financial resources and high demining technology to ensure the success of the Landmine free Western Hemisphere Project.²⁴² In November 1996, the Caribbean community (CARICOM) and Central American States in a meeting in Costa Rica pledged to make their region an Anti-Personnel mine-free zone by 2000.²⁴³

In June 1997, the Ottawa declaration foresaw a conference in Brussels. One of the primary purposes of the Brussels conference was to review the progress of the international community in achieving a global ban on anti-personnel mines. The Brussels conference drew representatives from 155 countries and more than 100 NGO's, around ninety seven countries expressed their commitment to the Ottawa process by signing the Brussels declaration, thereby declaring their support for a comprehensive ban treaty.²⁴⁴ Landmine ban treaty was strongly supported by Angola, Cambodia, Croatia, Cuba, Egypt, France, Rwanda, Japan, Jordan, Malawi, Guatemala, Portugal, Sudan, Zambia and Zimbabwe. Even in the Brussels conference countries like Australia preferred negotiating through the UN Conference on Disarmament. India, Pakistan, Russia and USA occupied the place of observers without subscribing to the declaration. This conference focussed on various dimensions of the anti-personnel mines: the ban, the victim assistance, rehabilitation programmes and mine clearance.

This conference identified those states willing to make a political commitment to launch a formal negotiation in Oslo with the objective of concluding negotiations and signing the treaty by the end of 1997. It also proposed a substantive discussion and further development of the draft treaty. It further provided a focal point for building awareness of the APM issue and corresponding political will for urgent action.²⁴⁵ Even after the Oslo conference countries like Australia and Japan were very much reluctant to accept the Ottawa Treaty. The Brussels declaration was ultimately signed in December 1997, the 97 signatories included most of the mine-infested states and the major European mine producers, and 13 countries out of 16 belonging to the North Atlantic Treaty Organisation (NATO) signed the declaration.²⁴⁶

²⁴² *ibid*, 1995, p.13.

²⁴³ Axworthy, Llyod. (1995), n.69, p.8.

²⁴⁴ *Ibid*, p.8.

²⁴⁵ Metten, Guillaume. (2000), "Belgium's Role in Landmine ban", in Christopher S Raj (eds.) *Stalking Terror Landmines in Peace and in War*, Delhi, Wordsmith, p.30.

²⁴⁶ Jim Wurst. (1997), "Closing in on a landmine ban: the Ottawa Process and U.S interests", *Arms Control Today*, p.16.

The declaration urged “vigorous pursuit of an effective, legally binding international agreement to ban the use, stockpiling, production and transfer of anti-personnel landmines” and affirmed that “the essential elements of an agreement should include: a comprehensive ban on the use, stockpiling production and transfer of anti-personnel landmines; the destruction of stockpiled and removed anti-personnel landmines; and international cooperation and assistance in the field of mine clearance in affected countries”²⁴⁷ On the other hand US position remained undivided on the Ottawa process. The US supported a ban on anti-personnel landmines in spite of its reservation on the use of landmines in Korean peninsula. It reserved the right to use indefinitely “smart” landmines (those equipped with self destruct devices, which nonetheless cannot distinguish between a soldier and a civilian) anywhere in the world and dumb mines in Korea.²⁴⁸ The US delegation tried to exclude anti-handling devices and other self-deactivating mines related to the anti-tank and anti-vehicle mines from the landmine ban treaty by altering the definition of the Anti-personnel mines further defining them as submunitions. The following proposals put forward by US would keep the most precarious landmines out of the provisions, further giving impetus to countries to produce such mines.

This stand of US regarding the use of the dumb mines in the Korean region was opposed by many of the participants in the Ottawa process except Japan. Specifically thirty two delegates including most of the core group countries like Canada and Mexico spoke against the US proposal by pointing out that any concession or exception at this point of finalising the treaty would open it up to other demands for geographic exceptions.²⁴⁹ The pro-ban states pointed out that accepting the US proposal would mean that signatories would be committed to banning landmines only in the peacetime. The Canadian delegate called the proposal an “absurdity”. Eleven other delegations, including France and Italy, joined Canada in rejecting the US proposal.²⁵⁰ The obstacles caused by US made Canada work in every possible way to universalise the treaty. The integrity of the convention as a humanitarian treaty was held to be more important than the inclusion of the United States.²⁵¹

²⁴⁷ Declaration of the Brussels Conference, 1997. [Online: Web] Accessed on 3 January 2010 URL: <http://www.icbl.org>.

²⁴⁸ Burkhalter, Holly. (1997), n.62, p.30.

²⁴⁹ Raj, Christopher S. (2000), n.20, p.37.

²⁵⁰ Ibid, p.37.

²⁵¹ Thakur, Ramesh. (1998), n.66, p.7.

The Norwegian government took up the task of convening a diplomatic conference in Oslo from 1 to 19 September 1997, to negotiate a treaty prohibiting the production, stockpiling, transfer and the use of the anti-personnel landmines. The mainstay of the conference was to transform the political support for such a treaty which was expressed at the Brussels conference in June, into an international legally binding treaty. The Austrian draft treaty of May 1997 had been circulated worldwide and has been subject of multilateral, detailed discussion in Vienna and Brussels.²⁵² The Oslo conference was convened with the primary purpose of finalising the landmine ban treaty. The negotiations witnessed a precise difference between United States with its allies Japan, Australia, and Spain on the one side and on the other the pro ban states. The Oslo conference reflected that number of delegations were secure with the process of the Ottawa treaty. “The extend beyond Cold War and disarmament diplomacy took its toll as delegates struggled to consolidate the political statements of their respective governments in favour of a total ban on anti-personnel mines.”²⁵³ Even after the release of the Oslo draft release US kept bargaining for its positions in the landmine ban treaty. US delegation enclosed an altered proposal which excluded the reservations on the use of dumb mines in the Korean region. It also exempted the references of the self destructing mines. “The proposal forwarded by US essentially focussed on the three important things firstly, the withdrawal clause article 20 would allow a party to withdraw in case it or an ally was victim of armed aggression in violation of UN Charter, secondly to allow individual states to defer compliance with certain treaty provisions for nine years from signature, rather than from entry into force of the treaty, as proposed by the US, thirdly to modify the definition of anti-handling devices to include not only those attached to the protected mine but also those located near the mine.”²⁵⁴

The Ottawa treaty was formally adopted on 18 September 1997, Lloyd Axworthy welcomed 122 signatory and 38 observer governments and over four hundred representatives of international and non-governmental organisations back to Ottawa to sign a ban convention to develop a global “Agenda for Mine Action” to ensure the convention was fully implemented, mines were cleared and mine victims were cared for.²⁵⁵ The Ottawa treaty was an outcome of the immense struggle of the civil society as well as various other sympathetic states that

²⁵²Walter, Arne. (2000), “From Brussels to Oslo”, in Christopher S Raj, *Stalking Terror Landmines in Peace and in War*, Delhi, Wordsmith, p.182.

²⁵³ Carstairs, Tim, (1997), n.48, p.109.

²⁵⁴Raj, Christopher S. (2000), n.20, pp.38-39.

²⁵⁵Opcit, p.39.

primarily stood for humanitarian struggle. As Foreign Minister Axworthy addressed the NGOs in the midst of the Ottawa process “one can no longer relegate NGOs to simple advisory or advocacy roles in the process. They are now the part of the way decisions have to be made. They have been the voice saying that government belongs to the people, and must respond to the people’s hope, demands and ideals”.²⁵⁶

The Ottawa treaty has been one of the fastest approved agreements in the world with a strong commitment towards the global landmine ban. The Ottawa Treaty states that the parties signatory to the treaty have to be “determined to put an end to the suffering and casualties caused by anti-personnel mines, that kill or maim hundreds of people every week, mostly innocent and defenceless civilians and especially children, obstruct economic development and reconstruction, inhibit the repatriation of refugees and internally displaced persons, and have other severe consequences for years after emplacement”.²⁵⁷

Article 1 of the treaty emphasized that the “signatories of the treaty under no circumstance, use anti-personnel mines, further it also prohibits the production, development, acquisition, stockpiling, retention of transfer of anti-personnel mines to anyone, either directly or indirectly; it calls on states to encourage and assist other signatories to actively join the effort to end the scourge of landmines and further endorsed the need for the destruction of the existing stockpiles in accordance with the provisions of the convention.”²⁵⁸ There was great deal of criticism on the issue of the definition of the mines contained in the CCW. The CCW excluded the dual purpose mines which can be denoted by the proximity of a vehicle or a person. Article 2 of the Ottawa treaty defined anti-personnel mines as “mine designed to be exploded by the presence, proximity or contact of a person and that will incapacitate, injure or kill one or more persons. Mines designed to be detonated by the presence, proximity or contact of a vehicle as opposed to a person that are equipped with anti-handling devices, are not considered anti-personnel mines as a result of being so equipped.”²⁵⁹ The treaties defines anti-handling device as a device intended to protect a mine and which is part of, linked to, attached to or placed under the mine and which activates when an attempt is made to tamper

²⁵⁶ Anderson, (2000), “The Ottawa Convention Banning Landmines, The Role of International Non-Governmental Organisations and the Idea of International Civil Society,” *European Journal of International Law*, 11(1), p.111.

²⁵⁷ Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of the Anti-Personnel Mines and on their Destruction, 18 September, 1997 (Ottawa: Department of Foreign Affairs and Trade), Ottawa, p.1.

²⁵⁸ Sundararaman. Shankari (1997), n.52, p.22.

²⁵⁹ Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of the Anti-Personnel Mines and on their Destruction, 18 September, 1997 (Ottawa: Department of Foreign Affairs and Trade), Ottawa, p.2.

with or otherwise intentionally disturb the mine”.²⁶⁰ The inclusion of the definition of anti handling device has avoided the use of anti-tank mines that contains anti-personnel components. This article also includes regulations related to the transfer of mines and also mined areas.

Article 3 of the treaty provides some exceptions on the policy related to the transfer of mines. The article allows retaining anti- personnel mines only in conditions of mine training, mine clearance or mine destruction technique. The article also specifies that minimum number of mines have to be retained without exceeding the limits.²⁶¹ Article 4 of the treaty states that, the stockpiles retained by any of the signatory have to be destroyed in time not exceeding four years. “Article 5 requires each state party to destroy in all anti-personnel mines in mined areas “under its jurisdiction or control” within ten years of entry into force date of the country. Each party “shall make every effort to” to identify areas where Anti-personnel mines are known or suspected to be emplaced and ensure the areas to be perimeter marked, monitored and protected by fencing or other means.”²⁶² Article 6 of the treaty deals with issues of international cooperation and assistance. Under this provision, each state is entitled to seek cooperation and assistance from the state parties. There has to be a genuine cooperation with respect to exchange of equipments, materials, scientific and technological information. Every state is bound to provide the assistance in terms of mine clearance, rehabilitation of the landmine victims, mine awareness programmes. The following assistance is provided through international organisations like United Nations system, ICRC, National Red Cross and Red Crescent societies and other NGOs.²⁶³ Article 7 of the treaty deals with the transparency measures and state party should abide by it. Every country should submit a detailed report of APL stockpiles mined areas and steps taken to protect nearby populations, demining and destruction programs, destruction inventories, and technical characteristics of mines produced or possessed to facilitate mine clearance.²⁶⁴ The following information has to be provided by the respective states to the UN Secretary General which will be further updated by the UN Secretary General annually.²⁶⁵

²⁶⁰ Ibid, p.2.

²⁶¹ Ibid, p.3.

²⁶² Raj, Christopher S. (2000), n.20, p.134.

²⁶³ Ibid, n.20, p.4.

²⁶⁴ The Ottawa Landmine Treaty, (September 1997), *Arms Control Today*, [Online Web] Accessed On 22 March, URL:hptt:// www.armscontrol.org.

²⁶⁵ Opcit, n.20, p.5.

Article 8 of the treaty pertains to the facilitation and clarification of the compliance a state party should provide. It allows the state parties to cooperate with each other with regard to the effective implementation of the provisions in the convention. It allows the state to clarify and resolve the questions relating to the compliance with the provisions of this convention by another state party by submitting a request of clarification to the secretary general of the United Nations.²⁶⁶ If the state party doesn't receive any kind of response it can submit the matter through the Secretary General of the United Nations. Any matter proposed by the state party would be taken into consideration depending on the information provided by the state parties through the Meeting of the State parties or the Special Meeting of the State Parties. Any request for facilitation of compliance in the context of the provisions that state, the nature of the mandate of such missions and which approved by a majority vote by the meeting of the state parties.²⁶⁷ The Secretary General of the United Nations on the request of the meetings of the state parties appoints the member of the mission and also the state heading the mission. "Without prejudice to the sovereignty of the requested state party, the fact finding mission may bring into the territory of the requested state party the necessary equipment which shall be used excessively for gathering information on the alleged compliance issue. Prior to its arrival, the mission will advise the requested state party of the equipment that it intends to utilise in the course of its fact-finding mission."²⁶⁸ The requested state party will be provided with all the requirements necessary for the fact finding mission like the protection of sensitive equipment, information and areas, protection of the constitutional obligations the requested state has with regard to the proprietary rights searches and seizures and necessary condition required for the members of the fact finding mission.²⁶⁹ The reports of the fact finding mission is further submitted through the Secretary General of the United Nations. The findings proposed by the concerned state would be endorsed with a majority consensus or with 2/3 majority.

Article 9 emphasises the need for the implementation of legal and administrative measures taken at the national level. It emphasizes the obligation of the states to ensure non-use of

²⁶⁶Raj, Christopher S. (2000), n.20, p.6.

²⁶⁷ Ibid, n.20 p.135.

²⁶⁸ Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of the Anti-Personnel Mines and on their Destruction, 18 September, 1997 (Ottawa: Department of Foreign Affairs and Trade), Ottawa, p.6.

²⁶⁹ Ibid, pp. 6-7

mines anywhere within its territory by passing requisite domestic legislation to curb use of mines and such other devices.²⁷⁰ It also included the legislation pertaining to the penal sanctions in case if any state is not accommodating to the legislations of the convention. Article 10 of the treaty deals with settlement of the disputes arising with regard to the relevance or analysis of the convention. Article 11 deals with the meetings of the state parties with regard to the implementation of the conventions. The meetings of the state parties concentrates on the issues like operation and status of the convention, international cooperation and assistance, development of the technologies related to the mine clearance and also issues related to the reports submitted by the state parties.²⁷¹ Article 12 and 13 pertains to the review conference and the amendments of the convention. The main purpose behind the review conference is to review the manoeuvre and the status of the convention and to take necessary decision with regard to the reports submitted by the state parties.²⁷² The review conference is open to all the states not party to the convention and various other regional and international organisations working towards the landmine ban. Article 13 of the treaty permits the state parties to bring necessary amendments in the convention if required. Any required amendment would be approved with two third majorities of the state parties present in the amendment conference. Article 14 relates to the expenses of all the meetings conducted. The cost of the meetings, review conference, special meeting of the state parties, amendment conference should be borne by the state parties and observer states would contribute according UN scale of assessment. Article 15 of the convention pertains to the issue of the signatories party to the convention.

Article 16 relates to the ratification, acceptance, and approval of the signatories. It is open for all the states which are not party to the convention. The initial step towards the ratification of the treaty is signing of the treaty. In majority of the cases, acceptance or approval is dependent upon domestic action and legislation within the national parliaments.²⁷³ Further, article 17 is a continuation of the article 16; article 17 has put forward the necessary obligation required for a convention to get into force. Any convention under this treaty would

²⁷⁰ Joseph Mallika, (29 February 2000), "Improvised Explosive Devices-V: IEDs and Landmine Treaties," *Institute of Peace and Conflict Studies*, [Online Web] Accessed On 2 march 2010 URL: http://www.ipcs.org/article_details.php?articleNo=334.

²⁷¹ Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of the Anti-Personnel Mines and on their Destruction, 18 September, 1997 (Ottawa: Department of Foreign Affairs and Trade), Ottawa- 9.

²⁷² Ibid, p.10.

²⁷³ Sundhararaman. Shankari. (1998) "The Landmine Question: An Overview of the Ottawa Process", *Strategic Analysis*, 22(1) p.22.

enter into force only after six months after 40 states have deposited their ratification. The treaty is binding to only those states which have ratified. Article 18 of the treaty states that “Any State may at the time of its ratification, acceptance, approval or accession, declare that it will apply provisionally paragraph 1 of Article 1 of this Convention pending its entry into force.”²⁷⁴ Article 19 of the treaty clears that no provision of the convention would be subject to the any sort of reservation. Article 20 of the convention provides an unlimited duration. Every state party provided absolute freedom to withdraw its position from the treaty. Any country deciding to withdraw from the convention has to provide a complete explanation regarding the reasons of the withdrawal. The concerned state would be permitted to withdraw only after six months and on the condition that at that point of time the state should not be involve in any kind of armed conflict. The withdrawal of a state party will not in any way affect the position and obligations of the other states who are signatory to the convention. According to the Article 21 the Secretary General of the United Nations has been designated as the depositary of the convention. The final article of the convention, Article 22 indicates that that the authentic text of the convention is available in languages like Arabic, Chinese, Russian, French, and Spanish which will be deposited under the Secretary General of the United Nations.

The treaty came into force on March 1, 1999, with 40 countries ratifying it. “The Ottawa convention offered the best framework for putting the mine ban into practice, clearing mined areas and assisting affected communities”.²⁷⁵ The Ottawa treaty is one of the international agreements which gained a tremendous momentum within a short period of time having almost two-third of the total countries of the world. ICBL which initiated the process of the Mine Ban Treaty particularly aimed at the universalisation of the Mine Ban Treaty and timely implementation of the provisions incorporated under the convention. Firstly one of the major drawbacks of the Ottawa treaty is that it only bans the use of the APMs not the Anti-tank mines. This drawback lies in the definition of the APM given in the treaty. First the convention does not define “vehicle” opening up the possibility that mines designed for use against light-weight could behave very much like APM and yet not be specifically prohibited under the convention and that mines are currently classified as APM which have anti-vehicle

²⁷⁴ Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of the Anti-Personnel Mines and on their Destruction, 18 September, 1997 (Ottawa: Department of Foreign Affairs and Trade), Ottawa, p.11.

²⁷⁵ International Campaign to Ban Landmines, (2009), *Landmine Monitor Report 2009: Towards a Mine Free World*, Mine Action Canada, Canada, p.4.

capabilities could be reclassified as anti-vehicle mines and therefore be considered to fall outside the prohibition of the convention.²⁷⁶ In comparison to the APMs anti-tank mines are used in large numbers in conflict afflicted areas. Most importantly Claymore mines which are not victim activated are not included in the Mine Ban Treaty which in a way is adversely affecting the credibility of the treaty.²⁷⁷ The treaty precisely does not mention the restriction on the use of booby traps and IEDs. The APMs are replaced with mines like claymore mines and anti-tank mines which in a way has not decreased the adverse effects incurred on the civilians. Though the treaty is aiming at the universalisation of the landmine ban it allows the state parties to retain certain amount of mines necessary for development and training in mine detection, clearance or destruction.

Even though the treaty is in effect, the issue affecting the credibility is that the major powers of the world like US, Russia, China and many of the South Asian countries including India and Pakistan are not signatories to the treaty. There are still 39 states that remain outside the Mine Ban Convention with large stockpiles of APMs. According to the Landmine Monitor estimation more than 160 million mines are held by the states not party to the convention and 13 states are still producing mines or retaining the right to do so.²⁷⁸ These countries stand against the proposal of total mine ban claiming that landmines are an indispensable weapon taking the issue of national security into prime consideration. Countries not being a part of the treaty are negatively affecting the process of universalisation of the treaty. The United States maintain an indistinct position when the question of global ban on landmines is raised in order to minimise its affect on its defence strategies. US is the only country which claims that there can be a technological solution with regard to the global landmine problem. The United States refused to give up the use of smart mines especially in the Korean region further stating that it will sign the treaty by 2006 if any alternative technology will be developed. Till date US stand with regard to the global landmine ban remains the unchanged. Though US has not used APMs since 1991, nor exported since 1992, not into any sort of landmine production since 1997, US not being a signatory has adversely affected the credibility of the Ottawa Treaty. At some point of time the participation of powerful countries

²⁷⁶ Atwood, David C.(1999), "Implementing Ottawa: Continuity and Change in the Role of NGOs", *Disarmament Forum*, (Geneva), no.4, p.27.

²⁷⁷ Banerjee, Dipankar. *Eliminating Anti-Personnel Mines, Presentation made at a conference held at the IIC on 4 Jan 1999 by the Common Security Forum*, Cambridge, England. [Online: Web] Accessed on 15 march 2010 URL: www.irinnews.org/InDepthMain.aspx?InDepthId=19&ReportId.

²⁷⁸ International Campaign to Ban Landmines, (2009), *Landmine Monitor Report 2009: Towards a Mine Free World*, USA, Human Rights Watch, p.7-9.

like US becomes extremely important to make the objective of the Mine Ban Treaty into reality. Being one of the most powerful countries in the world US not being part of multilateral agreement is adversely affecting the process of universalisation of the Ottawa treaty .On the other hand China opposes a total ban on APLs claiming that landmines are a reasonable means of self-defence for many countries and that a total ban on APLs would adversely affect the country's national security. China position on landmines is based on the issues related to its geographical location as it shares long border with India and Russia.

In spite of these strong oppositions, the Mine Ban Treaty has continued its vigorous campaign in order to universalise the treaty. With the completion of seventh year of the treaty the first review conference was held at Nairobi in Kenya in 2004 with a representation of 109 state parties and 20 states not party to the convention as observers. The main purpose behind the summit was to review the operation and status of the treaty, to take considerable decisions with regard to the submission of the state parties and to adopt necessary conclusions related to the implementation of the treaty.²⁷⁹ The main rationale behind the summit was to review the Mine Ban Treaty. The Nairobi action plan 2005-2009 includes the following proposals:

- That the 23 Ottawa Convention members with the greatest number of landmine survivors improve healthcare services needed to respond to the survivors' medical needs.
- That these states increase physical rehabilitation capacity and develop means to meet the psychological support needs of survivors, and actively help in survivors' economic reintegration
- That those Ottawa Convention members in a position to provide help promptly respond to the priorities for support articulated by those states in need that all Ottawa Convention members ensure the effective integration of landmine survivors as full partners to implement the work of the convention.²⁸⁰

The Nairobi conference adopted Towards a Mine Free World: the 2004 Nairobi Declaration largely emphasizing on the issue of victim assistance. The declaration also emphasised that that there has to be serious commitment by the states party to the convention in achieving the

²⁷⁹“The Nairobi Summit on a Mine Free World,” Handicap International, [Online: Web] Accessed on 15 march 2010 ,www.handicapinternational.org.uk/page_393.php.

²⁸⁰ Moszynski., Peter. (2004), “Nairobi Summit Opens with Call for action for landmine survivors,” *British Medical Journal*, 329(7478), p.1302.

prime objective of global landmine ban. The key developments with regard to this summit was that countries like China and Indonesia which are not signatories to the treaty showed a positive sign of extending their support and cooperation in universalising the Mine Ban Treaty. Followed by the Nairobi Summit the Second Review Conference was held at Cartagena in December 2009 with a high level representation of 156 state parties including the states not party to the convention presenting their unbending commitment towards the global landmine ban. The Cartagena summit adopted the Cartagena action plan 2010- 2014: Ending the Suffering caused by the Anti-Personnel Mines. The foremost purpose of the Cartagena Action Plan was to build upon the Nairobi Action Plan.²⁸¹ The summit concentrated on universalising the Mine Ban Treaty with a trio partnership of UN, ICRC and ICBL.²⁸²

One of the significant developments in the summit was that countries like Albania, Greece, Rwanda and Zambia announced that all the known mine areas have been completely cleared and were safe for human activity.²⁸³ On the other hand, US for the first time participated in the summit announcing that it would be reviewing its landmine policy. The Ottawa Treaty successfully established stringent regulations on the production and stockpiling of the APMs, further achieving a tremendous progress in making the landmine ban a global issue. Since its implementation the Mine Ban Treaty has kept up its credibility in executing its provisions in an accurate course. A total of 156 states are party to the mine ban treaty with an effective serious commitment on global landmine ban including Poland and Marshall Island which are yet to ratify the treaty. The state parties have destroyed approximately 42 million stockpiles of APMs.²⁸⁴ The number of states holding the APM stockpiles has considerably reduced since the implementation of the Mine Ban Treaty. According to the Landmine Report 2008, before the implementation of the Mine Ban Treaty, 139 states possessed large amount of APM stockpiles.

²⁸¹ “A shared Commitment Cartagena Action Plan 2010-2014: Ending the Suffering caused by Anti-Personnel Mines” Second Review Conference of the State Parties to the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction, 3-4 September 2009, Geneva, p.1, [Online Web] Accessed on 30 June 2010 URL: <http://www.cartagenasummit.org>.

²⁸² “Cartagena Summit on the Mine Free world 29 November- 4 December 2010,” ICBL report on the Activities, [Online Web] Accessed on 16 September 2010 URL: www.icbl.org/index.php/icbl/.../file/ICBL-Cartagena-Summit-Report.pdf.

²⁸³ “The Cartagena Action plan,” Cartagena Summit on a Mine Free World, 4 December 2009, [Online Web] Accessed on 5 September 2010 URL: <http://www.cartagenasummit.gov.co/article/read/118/>.

²⁸⁴ “Minister of State Kent Welcomes Government of Nicaragua Declaration Nicaragua is Free of Anti-Personnel Mines,” 2010, Foreign Affairs and International Trade Canada, [Online Web] Accessed On 17 September 2010, URL:<http://www.international.gc.ca/media/aff/news-communications/2010/195.aspx>

Today, even the state parties, not signatories to the treaty are lending their support to the landmine ban. According to the landmine monitor report 2009, the government use of APMs has drastically reduced with few exceptions like Myanmar and Burma at the same place the global trade of APMs has slowed down to a large extent.²⁸⁵ Many states those which are not signatories to the treaty have imposed moratorium on the transfer of landmines. According to 2010 landmine report 156 countries have joined the mine ban treaty.²⁸⁶ 86 states have completed the destruction of their stockpiles, collectively destroying over 45 million stockpiled antipersonnel mines.²⁸⁷

The Mine Ban Treaty has succeeded in bringing about the issue of landmines and its vicious effect on the mankind to the vanguard. One of the notable factors is that the Ottawa Convention is the only convention of its kind addressing the question of banning a weapon outside the platform of the CD of the United Nations.²⁸⁸

²⁸⁵ International Campaign to Ban Landmines, (2009), *Landmine Monitor Report 2009: Towards a Mine Free World*, USA, Human Rights Watch, p.1.

²⁸⁶ International Campaign to Ban Landmines, (2010), *Landmine Monitor Report 2010: Towards a Mine Free World*, Canada, Mine Action Canada, p.11.

²⁸⁷ *Ibid*, p.11

²⁸⁸ Sundhararaman. Shankari. (1998), n.110, p.27.

Chapter IV

INDIA'S LANDMINE POLICY

Since independence India has been propagating the principle of peace and disarmament and is maintaining cordial relations with its neighbours. However, for its security purposes it has also acquired arms and ammunitions. Explosives were extensively used by the British Government as well as by Indians who fought in the freedom movement. In order to restrict the use and supply of explosives the British passed the Explosive Act 1884.²⁸⁹ After independence the concern towards security and the vulnerability it is facing in the borders has compelled India to maintain large stockpiles of arms and ammunitions including landmines. Landmines have occupied an extremely significant place in the Indian defence strategy. For its national security and defence purposes India has produced and continues the use of landmines but has no official domestic policy which regulates and restricts its use.

India has not signed the 1997 Mine Ban Treaty and continues to use landmines as an indispensable weapon for defence purposes. The issue of national security is the foremost reason stated behind the use of landmines by the Indian Government. India has legitimate security concerns as it shares long borders with Pakistan and China. Since 2005, India has consistently argued for the availability of cost effective-alternative technologies, and proposes that once such technologies are available it would ban *anti-personnel* landmines.²⁹⁰ India has also stated that the *anti-personnel* mines are not used as a counter measure, but in a defensive mode due to the vulnerability it is facing at its borders and to check infiltration and stop hostile movement from across the Line of Control. In a statement issued in October 2008, India stated that “landmines continue to play an important role in the defence of the states that have long land borders with difficult and inhospitable terrains.”²⁹¹

India is party to the Amended Protocol II of the Convention on Conventional Weapons (CCW) and is the second country in the South Asian region to have ratified it on March 1,

²⁸⁹The Explosive Act 1884, [Online: Web] Accessed on 14 March, 2010, URL:<http://www.legalhelpindia.com/bareacts/the%20explosive%20act%20188.doc>. The Explosive Act 1884 was mainly passed to regulate the manufacture, use, sale, production, possession, import and export of the explosives.

²⁹⁰Bisht, Medha. (2009), “Revisiting the Indian Policy on Anti-Personnel Landmines,” [Online: Web] Accessed on 14 March, 2010, URL:<http://www.idsa.in>.

²⁹¹International Campaign to Ban Landmines, (2009), *Landmine Monitor Report 2009: Towards a Mine Free World*, Mine Action Canada, Canada, p.930.

1985. It was also one among those countries which remained totally distant from the Ottawa process. It viewed that rather than fast track diplomacy like the Ottawa treaty, the Conference on Disarmament (CD) is a better place to resolve the problems pertaining to landmines. India maintained its status only as an observer in the sessions it participated. India voted in favour of the United Nations General Assembly Resolution 51/45S. India was one of the very few states to abstain from the 1997 UNGA Resolution 52/38A supporting the ban treaty signing. It also abstained from the 1998 UNGA Resolution, welcoming the addition of new states to the 'Mine Ban Treaty'. Further it urged its full realisation while also inviting all the state parties to the 'First Meeting of the State Parties' in Mozambique in May 1999.²⁹²

Being a signatory to the 'Amended Protocol II of the CCW', India altered its position on the landmine ban to a considerable extent. India stated that there has to be an additional concern on the issue of production and the use of mines. It also proposed a ban on the use of the APMs in internal conflicts. Participating in the 'Review Conference on Amendment II to the 1980 CCW' on 26 September 1995, Indian ambassador Arundhati Ghosh expressed the viewpoint that: "India had called for a ban on the use of landmines in armed conflict not of an international character. This should be our immediate goal to pave the way for the ultimate elimination of landmines. We have also called for the prohibition of the use of booby traps in armed conflicts not of an international character and would like this prohibition extended to other devices including Improvised Explosive Devices. India firmly believes that the best way to win the battle against landmines is to drastically reduce their easy availability which leads to their indiscriminate use. India therefore strongly supports proposals to ban the transfer of mines, as we believe that such transfers not only fan existing tensions but also have an adverse humanitarian impact. The problem will not be resolved by any ad hoc control regime which is not multilaterally negotiated. We are not convinced, however, that this response should include intrusive verification or policing system which would deter wider adherence and possibly be open to abuse. We believe that greater confidence can be built through increased transparency and regular exchange of information."²⁹³

²⁹² International Campaign to Ban Landmines, (1999), *Landmine Monitor Report 1999: Towards a Mine Free World*, Human Rights Watch, USA, p.463

²⁹³ India, Permanent Mission of India to the United Nations Office, Geneva, "Statement by H. E. Arundhati Ghosh, Permanent Representative of India to the UN Office in Geneva, at the Review Conference on the Inhumane Weapons Convention," Geneva, 26 September 1995. Raj, Christopher S (2000), "Landmine Ban: A Poser to the World Conscience" in Christopher S Raj (eds.), *Stalking Terror Landmines in Peace and in War*, Delhi, Wordsmith, p.16.

Stating its position on the use of landmines at the conclusion of the CCW negotiation on May 3, 1996, India argued that the use of landmines has to be strictly banned in the internal conflicts which are not of an international character. It further emphasised that the use of APLs has to be permitted only for the defensive purposes in countries having long borders.²⁹⁴ Prior to the review conference of the CCW, various meetings of the governmental experts were held in order to deal with the issues related to Protocol II. India was an active participant in these meetings with Major General Chandra Narayan of the Engineer Corps of the Indian Army serving as the vice-chairman of one of the working groups on definition.²⁹⁵ India also proposed in the review conference that there has to be a complete prohibition on the use of landmines, booby traps and other devices in all internal conflicts.²⁹⁶

Rather than visualising landmines as a defensive weapon, India's main objective is to reduce the impact landmines is causing to the non combatants. Further it wants to concentrate on upgrading the technology in order to produce detectable and self destructive mines which would reduce the crisis civilians are facing due to the dumb mines.²⁹⁷ India consistently maintains that national security has been the foremost priority and landmines play an indispensable role in their defensive strategies and can only be given up if there is an alternative technology. In a 'Review Conference of The CCW' on 12 February 1998, Indian ambassador Savitri Kunadi stated that: "India remains committed to the objective of a non-discriminatory and universal ban on anti-personnel landmines through a phased process that addresses the legitimate defence requirements of states, while at the same time ameliorating the humanitarian crisis that have resulted from an irresponsible transfer and indiscriminate use of landmines. The process of complete elimination of APLs will be facilitated by the availability of appropriate non-lethal alternative technology. We had proposed and remain prepared for a complete prohibition of the use of landmines in non-international armed conflicts i.e. internal conflicts. In fact we believe that the use of APMs should only be permitted for the long term defence of the borders, perimeters and the peripheries of states. India favours an outright ban on transfer rather than attempts to restrict transfers. India could

²⁹⁴ International Campaign to Ban Landmines, (2001), *Landmine Monitor Report 2002: Towards a Mine Free World*, Human Rights Watch, USA, p.464.

²⁹⁵ Kumar, Ajit.(2000), "India's Policy on Landmines" in Christopher S Raj (eds.), *Stalking Terror Landmines in Peace and in War*, Delhi, Wordsmith, p.175

²⁹⁶ Ibid, p.176

²⁹⁷ Noorani, A.G. (1995), "Landmines and Blinding Laser Weapons," *Economic and Political Weekly*, 30(48), p.3048

take an initiative by addressing a ban on transfer in the CD. India has always observed a unilateral moratorium on export of landmines. India calls upon all the states to do so.”²⁹⁸

On the other hand the Indian Ministry of External Affairs in its Annual Report of 1998 stated that India remains committed to the to the goal of the eventual elimination of landmines and supports a phased approach towards attaining the objective of a non-discriminatory and universal ban on the anti-personnel landmines. India is concerned about the humanitarian crisis caused by the indiscriminate use of the APMs especially in the internal conflicts. An agreement that would prohibit the use of APMs in the internal conflicts with an additional attention to the de-mining and victim assistance programmes, would be effective in the long run. India remains flexible on the issue of ‘Forum for Negotiations’ and believes that availability of non-lethal technologies to perform the legitimate defensive role of landmines will help accelerate their complete elimination.²⁹⁹ India abstained from voting on November 2000 United Nations General Assembly resolution calling for universalisation and implementation of the ‘Mine Ban Treaty’. It did not attend as an observer in the ‘Second Meeting of States Parties to the Mine Ban Treaty in September 2000’, and did not participate in the ‘Mine Ban Treaty’s Intersessional Standing Committee’ meetings in December 2000 and May 2001. Although India was not part of the diplomatic meetings in 2000, but altering its stand on the ban on APLs to a certain extent, it stated that it would completely support the objective of global ban on such weapons if there is a cost effective alternative technology offered. In December 2000, summarising India’s policy on mines ambassador Rakesh Sood emphasised that “India remains committed to the objective of a non-discriminatory, universal and global ban on anti-personnel mines in a manner that addresses the legitimate defence requirements of States. The process of complete elimination of anti-personnel landmines will be facilitated by addressing the legitimate defensive role of anti-personnel landmines for operational requirements under the defence doctrines of the countries concerned, through the availability of appropriate militarily effective, non effective, non-lethal and cost effective alternative technologies”³⁰⁰

²⁹⁸ Statement by Ambassador Savitri Kunadi, Permanent Representative of India, Permanent Mission of India to the United Nations (Geneva), to the First Annual Conference of State Parties to the Amended Protocol II to the CCW, 15 December 1999, [Online: Web] Accessed on 15 May, 2010, URL: <http://www.un.int/india/ind56.htm>

²⁹⁹ International Campaign to Ban Landmines, (1999), *Landmine Monitor Report 1999: Towards a Mine Free World*, Human Rights Watch, USA, p.463

³⁰⁰ Ambassador Rakesh Sood, Statement at the Second Annual Conference of States Parties to Amended Protocol II of the Convention on Conventional Weapons, Geneva, 11 December 2000, [Online: Web] Accessed on 20 May, 2010, URL: <http://www.un.int/india/ind554.htm>.

In December 2000, while showing preference for Conference on Disarmament (CD), India participated in the Second Annual Meeting of the 'State Parties to the Amended Protocol II of the CCW' and the preparatory meeting of the 'CCW Review Conference'. At the same time India agreed to serve as a "Friend of Chair" regarding proposals on compliance and extension and its scope.³⁰¹ In December 2001, India attended the 'Second Review Conference' at CD wherein the Indian ambassador Rakesh Sood was designated as chairman of the conference. He also chaired the group of the government experts to consider the issue of explosive remnants of wars and anti-vehicle mines. The foremost objective of the 'Second Review Conference' was to include armed conflicts of non international character: India took up the issue of the IEDs in the Review Conference stating that there has to be greater focus on the impact IEDs are causing to the civilians. India submitted a document on "Irresponsible Use of Mines Other Than Anti-Personnel Mines (MOTAPM) by Non State Actors." The document explained the methods to stop access of these weapons to the non state actors. Nevertheless easy access of weapons like mines and IEDs to the non state actors has exaggerated the landmine crisis.

Though India has maintained a reasonable position on the use of landmines and its impact on the socio economic conditions of the civilians, Indian government has been involved in the use of landmines in a full fledged manner especially on the India-Pakistan border.³⁰² The Indian government has stated that the landmines have been used only in certain regions of the country like Kashmir wherein India shares long borders with Pakistan. India asserts that landmines are vital weapons to check the infiltration of militants between Pakistan and Kashmir.³⁰³ India has used landmines in its war against China in 1962 and its three wars against Pakistan in 1947, 1965 and 1971.³⁰⁴ In recent times India claims that the issue of national security has turned more complex with the attack on the Indian Parliament on December 13, 2001, and with the result it has had to face multifarious problems with regard to its security especially on the India-Pakistan border. Owing to this reason, both India and Pakistan have laid large number of antipersonnel and anti-tank mines on their borders making

³⁰¹International Campaign to Ban Landmines, (2001), *Landmine Monitor Report 2002: Towards a Mine Free World*, Human Rights Watch, USA, p.535.

³⁰² "Recent Landmine Use by India and Pakistan," May 2002, Human rights Watch Backgrounder, [Online: Web] Accessed on 3 March, 2010, URL: www.jammukashmir.eclipse.co.uk/ind-pak-landmines

³⁰³Singh Prakash, "An Indian Assessment: Low Intensity Conflicts and High Intensity Crimes," [Online: Web] Accessed on 10 March, 2010, URL: <http://www.satp.org/satporgrp/publication/faultlines/volume5/Fault5-10psingh.htm>.

³⁰⁴International Campaign to Ban Landmines, (2001), *Landmine Monitor Report 2004: Towards a Mine Free World*, Human Rights Watch, USA, p.536.

was also absent in the 'Fourth Meeting of States Parties to the Mine Ban Treaty' in September 2002 and did not attend the 'Intersessional Standing Committee' meetings in February and May 2003.

India attended the First Review Conference of the Mine Ban Treaty as an observer at Nairobi in November-December 2004.³⁰⁹ This was India's first participation in a diplomatic meeting related to the Mine Ban Treaty and was headed under the representation of Kenya's high commissioner Surendra Kumar. Though it was India's very first participation in the Mine Ban Treaty, it did not make any formal statement in the conference and abstained from voting UNGA Resolution 59/84 on 3 December 2004. India also participated for the first time in the treaty's 'Intersessional Standing Committee' meetings in Geneva from 13-17 June 2005.³¹⁰ In March 2006 the Canadian government came up with a delegation to India to negotiate over the Mine Ban Treaty. It was for the first time that the Indian delegation including senior defence officials, external affairs ministry representatives met a foreign delegation to discuss over the issue on landmines. A proposal for a joint moratorium with Pakistan on the common borders was made by the government which was a positive sign in terms of India's relation with Pakistan. The delegation included retired General Maurice Baril, the former head of the Canadian Armed Forces; ICBL's diplomatic advisor retired Indian ambassador Satnam Jit Singh.

At the sixth meeting of the state parties of the CCW on November 28, 2005, Muktesh Pardeshi, Counsellor of the Permanent Mission of India to the Conference on Disarmament in Geneva stated that "a mine-free world is our shared vision. India's landmine philosophy is inspired by humanitarianism and guided by respect for International Humanitarian Law and protection of civilian life from the gravest threats posed by irresponsible use of mines and improvised explosive devices. India remains fully committed to the ultimate objective of a universal ban on anti-personnel landmines in a manner that would also address the legitimate national security concerns of States. We also believe that availability of appropriate militarily-effective, non-lethal and cost-effective alternative technologies will greatly facilitate in attaining that goal."³¹¹ India also stated that it has never resorted to the use of

³⁰⁹International Campaign to Ban Landmines, (2002), *Landmine Monitor Report 2002: Towards a Mine Free World*, Human Rights Watch, USA, p.659.

³¹⁰Ibid, p.687

³¹¹ Statement by Muktesh Pardeshi (2005), at the Sixth Parties to the Convention on the Prohibition of the Use, Stockpiling and Production and Transfer of Anti-Personnel Mines and on their destruction, [Online: Web] Accessed on 17 April 2010, URL:[http:// www.apminebanconvention.org/fileadmin/.../India_6MSP_28Nov05.pdf](http://www.apminebanconvention.org/fileadmin/.../India_6MSP_28Nov05.pdf)

it one of the heavily mined regions in the world. In fact it was after the Parliament attack in 2001 that India used land mines for the first time since its war with Pakistan in 1971. Further, between December 2001 and July 2002 under *Operation Parakram*, Indian Army deployed an estimated two million mines along its 2,880km northern and western border with Pakistan. This was the last time that India used land mines and the operation directly affected more than 6,000 families across 21 villages.³⁰⁵ 27,127 hectares (105 square miles), including 350 villages, along the 210-kilometer (131 mile) long international border with Pakistan was acquired by the Indian Army to lay mines or construct fortifications.³⁰⁶ This was probably the most extensive use of antipersonnel mines anywhere in the world since the Mine Ban Treaty was negotiated and first signed in 1997.³⁰⁷

India's stand towards the use of APLs has remained unchanged. With comparison to the diplomatic meetings of the Mine Ban Treaty, India was more active on the platform of Conference of Disarmament. Attending the 'Fourth Annual Conference of States Parties to Amended Protocol II of the Convention on Conventional Weapons', ambassador Rakesh Sood stated that, "India remains dedicated to the pursuit of the ultimate objective of a non-discriminatory, universal and global ban on anti-personnel mines in a manner that addresses the legitimate defence requirements of States. We believe that the process of complete elimination of anti-personnel mines will be facilitated if we approach the issue with due cognizance of the legitimate operational role of anti-personnel mines as part of the defence policies of the States that use them."³⁰⁸

India participated in the Fifth Annual Conference of the States Parties to Amended Protocol II in November 2003 and submitted its annual report as required by Article 13. Though India had humanitarian concerns and came up with various proposals to strengthen the Landmine Protocol at the Conference of Disarmament on the other hand it kept itself isolated from all the diplomatic conferences pertaining to the Mine Ban Treaty. On May 18 2005, India ratified CCW Protocol V on Explosive Remnants of War. India abstained from voting on the pro-ban treaty United Nations General Assembly Resolution 57/74 on 22 November 2002. It

³⁰⁵ "Around 3000 Indians died due to landmines and over 2000 were injured in the last decade," 2009, [Online: Web] Accessed on 14 March, 2010, URL: http://www.cafi-online.org/press-detail.php?pr_id=25.

³⁰⁶ "Recent Landmine Use by India and Pakistan," (2002), *Human Rights Watch Backgrounder*, P-1. [Online: Web] Accessed on 20 April 2010, URL: <http://www.hrw.org/backgrounder/arms/ind-pak-landmines>.

³⁰⁷ International Campaign to Ban Landmines, (2004), *Landmine Monitor Report 2004: Towards a Mine Free World*, Human Rights Watch, USA, pp.975-977; International Campaign to Ban Landmines, (2002), *Landmine Monitor Report 2002: Towards a Mine Free World*, Human Rights Watch, USA, pp.660-662.

³⁰⁸ International Campaign to Ban Landmines, (2003), *Landmine Monitor 2003: India*.

landmines to maintain internal order or for counter terrorism operations. After its presence as an observer in the First Review Conference of the Mine Ban Treaty, India attended the 'Seventh Meeting of the State Parties of the Mine Ban Treaty' in 2006 as well as the 'Intersessional Standing Committee' meetings held at Geneva in May 2006 and April 2007. In October 2007, Ministry of Defence spokesperson Colonel A. K. Mathur reportedly stated in Srinagar, Jammu and Kashmir that mines are laid there only by the army to halt infiltration of militants, but not by the militants themselves.³¹²

At the Third Review Conference of the Conference on Disarmament in November 2006, India made no statements. India stated that it is wholly committed to the humanitarian principles incorporated by the CCW convention. With concern to the CD, India has signed all the five protocols and also shown serious consideration regarding the measures to implement other protocols, including Protocol V on electronic radiation weapons (ERW).³¹³ In 2008 India actively participated in the diplomatic sessions of the Mine Ban Treaty. As an observer India attended the Eighth Meeting of States Parties to the Mine Ban Treaty in November 2007 in Jordan as well as to the June 2008 Intersessional Standing Committee Meetings. In spite of the active participation in the diplomatic delegations in October 2008 India stated that landmines are an indispensable weapon and are important due to the security reasons emphasising that the country has long vulnerable borders. It further stated that "India will also continue to pursue the objective of a non-discriminatory, universal and global ban on anti-personnel mines in the manner that addresses the legitimate defence requirements of states."³¹⁴ Maintaining a similar stand on December 2, 2008, India abstained from voting on United Nations General Assembly Resolution 63/42 calling for universalisation and full implementation of the Mine Ban Treaty. India was present at the Ninth Meeting to the State Parties Meeting to the Mine Ban Treaty in November 2008. A detailed report of measures and steps taken by India with regard to its commitment to the humanitarian ideals concerned with the Mine Ban Treaty.³¹⁵

In spite of its unchanged stand on use of landmines India has been considerate and committed

³¹²Wani, Riyaz. "Hizbul chief says no more mines, Army says militants only use IEDs," *Indian Express*, 18 October 2007, [Online: Web] Accessed on 20 April 2010, URL: <http://www.indianexpress.com>.

³¹³International Campaign to Ban Landmines, (2007), *Landmine Monitor 2007: India*

³¹⁴Statement by Arjun Charan Sethi, Member of Parliament, First Committee of the 63rd Session of the UN General Assembly, New York, 21 October 2008, Accessed on 10 September 2010, <http://www.un.int/india/2008/ind1477a.pdf>.

³¹⁵International Campaign to Ban Landmines, (2009), *Landmine Monitor Report 2009: Towards a Mine Free World*, Mine Action Canada, Canada, p.931.

towards the mine related operations. India has been one of the largest contributors to the UN peace keeping as well as de-mining operations worldwide. It has also been supportive in providing technical assistance as well as providing assistance in the mine affected regions. India has been actively associated with the UN de-mining operations from 1961-63, where Indian Army assisted the UN operations in Congo.³¹⁶ The national expertise of the Indian Army has been extensively applied in the UN mine clearance operations especially in place like Angola, Cambodia, Bosnia, Ethiopia, Mozambique, Rwanda, Sierra Leon and Somalia.³¹⁷ India has been providing de-mining training to army personnels especially in mine affected areas. It carried out training for the Royal Cambodian Armed Forces from January 15, 2009 to February 3, 2009.³¹⁸ Unfortunately in spite of its humanitarian concerns with regard to the Ottawa treaty, India doesn't maintain a domestic policy on landmines which would restrict and regulate its use.

Production, Stockpile and Transfer

India is one of the very few countries in the world which continues to produce APMs. Most of the APM production is vested completely in the hands of the government agencies. Initially India was producing two APMs both of which were copies of U.S mines: the M16A1 bounding fragmentation mine, and the APNM M14 pressure initiated blast mine.³¹⁹ These mines especially the M14 pressure initiated blast mine had a plastic body and less of a metal content, limited to the striker and the detonator.³²⁰ Due to its undetectable nature and because of the high level content of plastic, it is adversely affecting the mine clearance programmes.

On the other hand the use of mines having less metal content was against the clauses of the Amended Protocol II of the CCW. In order to be in compliance with the Protocol II of the CCW India instructed the production agencies to give up production of these mines which are

³¹⁶Kumar, Ajit.(2000), "India's Policy on Landmines" in Christopher S Raj (eds.), *Stalking Terror Landmines in Peace and in War*, Delhi, Wordsmith, p.177.

³¹⁷Statement by Muktesh Pardeshi (2005), at the Sixth Parties to the Convention on the Prohibition of the Use, Stockpiling and Production and Transfer of Anti-Personnel Mines and on their destruction, [Online: Web] Accessed on 17 April 2010, URL:www.apminebanconvention.org/fileadmin/.../India_6MSP_28Nov05.pdf.

³¹⁸ Statement by Hamid Ali Rao,(2009), At the Eleventh Annual Conference of the State Parties to Amended Protocol II to the Convention on Prohibition or Restriction on the Use of Certain Conventional Weapons Which May Be Deemed To Be Excessively Injurious or o have Indiscriminate Weapons. [Online: Web] Accessed on 12 May 2010, URL: [http:// www.un.int/india/201/ind1764.pdf](http://www.un.int/india/201/ind1764.pdf).

³¹⁹ Chandran. D Suba and Joseph, Mallika A. (2001), *Lethal Fields: Landmines and IEDs in South Asia*, Institute of Defence Studies and Analyses, New Delhi, p.46

³²⁰ International Campaign to Ban Landmines, (1999), *Landmine Monitor 1999: India*.

irreconcilable with the Amended Protocol II. The Article 13 report submitted to the CCW by India states that “India is taking the necessary steps to render existing stocks as well as new designs fully compliant with the relevant provisions of Amended Protocol II Further, the Defence Research and Development Organisation (DRDO) has designed devices equipped with self-destruction and self-deactivation features. Devices that have fulfilled the required design parameters are undergoing user trials.”³²¹ In the past India had not produced remotely delivered mines or self destructive or self deactivating mines. In its report of Article 13 in December 2001, India indicated that a detectable version of the hand-emplaced M14 mine “has been designed and approved for production.”³²² In 2005 India stated that it produces only detectable version of mines NM-14 in order to compliance with the clauses of the Amended Protocol II of the CCW.³²³ India has not produced any of the Remotely Delivered Mines. As of 2009 the Indian Ministry of Defence confirmed that India produces five mine types including two types of antipersonnel mines (AP NM-14 and AP NM-16) both copies of and two types of anti-vehicle mines (AT ND 1A and AT ND 4D), as well as the APER 1B mine.³²⁴ The information about the production of arms and ammunitions is not disclosed on the grounds of national security. Most of the information about the production of landmines is not disclosed.

India’s anti-personnel mines stockpile is estimated as four to five million, which is the sixth largest in the world.³²⁵ India has neither denied nor confirmed the estimation. The great majority of mines in the stockpile are believed to be the Indian APNM M14 mines.³²⁶ There is much of uncertainty whether India is involved in landmines trade. According to the government, “India has never exported landmines and has formally announced moratorium, of unlimited duration, prohibiting the export of landmines.”³²⁷ The comprehensive moratorium was announced by India on May 3, 1996. India maintains that in order to achieve global ban on APMs the access to these weapons have to be sopped to reduce the adverse

³²¹International Campaign to Ban Landmines, (2000), *Landmine Monitor Report 2000: Towards a Mine Free World*, Human Rights Watch, USA, p.553.

³²²International Campaign to Ban Landmines, (2002), *Landmine Monitor Report 2002: Towards a Mine Free World*, Human Rights Watch, USA, p.663.

³²³ International Campaign to Ban Landmines, (2000), *Landmine Monitor Report 2000: Towards a Mine Free World*, Human Rights Watch, USA, p.562.

³²⁴International Campaign to Ban Landmines, (2009), *Landmine Monitor Report 2009: Towards a Mine Free World*, Mine Action Canada, Canada, p.932.

³²⁵Jeena, Kushal. (2008), “Analysis : India Rejects Ban on Landmines,” [Online: Web] Accessed on 28 March, 2010, URL:http://www.spacewar.com/.../Analysis_India_rejects_ban_on_landmines_999.html.

³²⁶Chandran, D Suba and Joseph, Mallika A. (2000), n.19, p.47

³²⁷ Statement by Ambassador Savitri Kunadi to the First Annual Conference of Amended Protocol II, 15 December 1999. [Online: Web] Accessed on 15 May, 2010, URL: <http://www.un.int/india/ind56.htm>.

impact landmines are causing. However, five Mine Ban Treaty States Parties have reported Indian-made mines in their stockpiles: Bangladesh, Bhutan, Mauritius, Sudan, and Tanzania. India had however previously denied that any transfer of landmines to these countries took place.³²⁸

Landmines Use by the Non State Actors

Since independence India has been paralysed by number of armed struggles and secessionist movements. Most of these struggles have been related either to the issues of development of certain regions in the country or a demand for the creation of a separate state or an autonomous status within India. Even though the use of landmines by non-state armed groups decreased from a high of 19 countries in 2001 to 7 countries in 2008, the use of improvised explosive devices (IEDs) and mines by non-state armed groups is on the rise in India. Although deemed by many as lacking decisive military utility and despite their disastrous humanitarian consequences, landmines clearly serve different purposes for each Non State Actors (NSA) that employs them.³²⁹ India has a long-standing problem with a variety of non-state armed groups that continue to use antipersonnel mines, antivehicle mines and, most commonly, improvised explosive devices (IEDs) in the conflict inflicted regions of the country.³³⁰ The most important regions in India wherein the landmines have been used extensively by the NSAs are the Northwest border of Jammu and Kashmir, the north-eastern states and in certain other states of India where extreme communist ideology operates like Andhra Pradesh, Jharkhand, Bihar, Chattisgarh, and West Bengal.

Owing to limited access to sophisticated arms and ammunitions the NSAs have always opted for landmines as one of the indispensable weapons for their counter insurgency operations. Landmines are used for offensive strategies rather than for defensive purposes by the NSAs. Economic constraints play a chief rôle in the increased use of landmines by the NSAs in India. Mines are also referred to as poor man's weapon due to its cost effectiveness. On the

³²⁸ International Campaign to Ban Landmines, (2005), *Landmine Monitor Report 2005: Towards a Mine Free World*, Mine Action Canada, Canada

³²⁹ Sjoberj, Anki. (2006), "Armed Non State Actors: The Many Users of the Poor Man's Weapon," *Journal of Mine Action*, p.2, [Online: Web] Accessed on 15 March , 2010, URL: <http://maic.jmu.edu/journal/10.1/notes/sjoberj/sjoberj.htm>

³³⁰ International Campaign to Ban Landmines, (2005), *Landmine Monitor Report 2005: Towards a Mine Free World*, Mine Action Canada, Canada. [Online: Web] Accessed on 17 March , 2010, URL: <http://www.the-monitor.org/index.php/publications/display?url=lm/2005/>.

other hand NSAs have been commonly using the IED which is similar to a mine in its technology, detonation and the damage caused after the explosion. The IEDs incorporate highly destructive lethal and dangerous explosives or incendiary chemicals and are destined to kill or destroy the target and are best suited for ambush and other tactics of guerrilla warfare and insurgency.³³¹ The IEDs become the natural choice for NSAs as they offer maximum flexibility on human resources and less material input but more output in terms of damage caused.³³² The IEDs are the ultimate non nuclear explosives available to the militants. The NSAs mainly target the army personnels, police forces and the civilians.

Over the last twenty years a number of militant organisations have been operating in Kashmir. The cross border terrorism especially in the Line of Control has made the NSAs resort to the extensive use of mines and IEDs. The most important militant groups using antipersonnel mines, anti-tank mines and IEDs are Lashkar-e-Toiba, Hizb-ul Mujahedeen, Hakat-ul-Jihadi Islami, Jaish-e-Mohammad and Harkat-ul-Ansar.³³³ Among the NSAs operating in India it is only the Kashmiri militants are known to use the conventional mines. The antipersonnel and antitank mines used by the militants operating in Kashmir are either self produced or sometimes supplied by the Pakistan forces supporting the separatist movement in Kashmir. Many Pakistan ordnance factories made anti-tank and antipersonnel mines have been recovered from the militants in Kashmir. Most of the militant organisations in Kashmir use the RDX type of explosives. These organisations are actively operating in many districts of Kashmir like Kupwara, Poonch, Rajouri and Doda and use antipersonnel mines, anti-tank mines including IEDs to target the Indian Armed Forces. In order to paralyse the movement of the military forces the militants target bridges, main highways and security zones. In Kashmir about 90 bridges have been reconstructed by the military forces due to the damage caused by the landmine and IED blasts. Militants in Kashmir are also known for using the mechanism similar to a conventional 'double impulse fuse' that enables the same IED to be triggered twice and offensive countermeasures like multiple blasts.³³⁴ Various types of detonation methods are used to operate mines and IEDs. Kashmiri militants are known for using sophisticated and effective detonation methods from pencils and electronic timers to radio waves and various kinds of timer devices in order to enhance the damage

³³¹ Chandran D Suba and Joseph, Mallika A. (2000), n.19, p.13

³³² Ibid, p.13

³³³ International Campaign to Ban Landmines, (2005), *Landmine Monitor Report 2005: Towards a Mine Free World*, Mine Action Canada, Canada. [Online: Web] Accessed on 17 March , 2010, URL: <http://www.the-monitor.org/index.php/publications/display?url=lm/2005/>

³³⁴ Chandran D Suba and Joseph, Mallika A. (2000), n.19, p.14

caused by the explosion. The militants use every possible way of mine and IEDs assemblage to mislead the security forces.

In Jammu and Kashmir as the landmines have been used by both the Indian Army and the NSAs it has increased the number of casualties among the army personnels and civilians. Mines continue to pose serious threat to the civilians living in the vicinity of the Line of Control, disrupting their common life. However, there was a decline in the use of landmines by the militant groups in Kashmir possibly because the use of landmines was not effective to the expected level. On the other hand the militants relied extremely on IEDs due to its cost effectiveness and its flexibility in terms of human and material resources.³³⁵ Considering the severe humanitarian crisis caused by the mines and IEDs, number of militant organisations took an initiative to ban the use of antipersonnel mines. In October 2007, the United Jihad Council, a coalition of 18 militant organizations in Kashmir including Hizb-ul Mujahideen, Jamiat-ul-Mujahideen, Tehreek-ul-Mujahideen, Al-Umar Mujahideen, Muslim Janbaz Force, Al-Jihad, Hizbullah, Al-Barq, Islamic Front, Tehreek-i-Jihad, Al-Fatah Force, Harkatul Jihad-i-Islami, and Hizb-ul Momineen issued a declaration of a total ban on antipersonnel mines in Kashmir. This followed a declaration for a mine free Kashmir issued earlier in the month in which some Kashmiri political parties called on all combatant groups in Kashmir to halt the use of antipersonnel mines, and requested international assistance for mine survivors and mine clearance.³³⁶ Laskar-e-Toiba, Jaish-e-Muhamad, Al-Badr, Hizb-i-Islami, and Harkatul Mujahideen were among the observers. The United Jihad Council stated that it is bound to the restrictions imposed by the Mine Ban Treaty and it only uses the command detonated device taking the security of its own members into consideration. In spite of the initiatives taken by the NSAs in banning the use of mines and IEDs there has been considerable number of casualties caused by the mine explosions.

North East has been a home to over 32 million people belonging to more than 220 ethnic groups. It is comprised of Assam, Meghalaya, Tripura, Mizoram, Arunachal Pradesh, Nagaland and Manipur states. There are more than 30 major and several small armed rebel groups in the region, some linked with ethnic groups and most demanding either

³³⁵Ibid, p.26

³³⁶ International Campaign to Ban Landmines, (2008), *Landmine Monitor Report 2008: Towards a Mine Free World*, Mine Action Canada, Canada .p.546 ICBL, "Kashmir: Insurgency Bans Use of Antipersonnel Landmines," 18 October 2007, [Online: Web] Accessed on 28 March, 2010, URL: <http://www.icbl.org>.

independence or new states in the northeast.³³⁷ Next to Jammu and Kashmir, North East India is the second largest mine affected region in the country. The level of militancy is very high in states like Manipur, Assam, Nagaland and Tripura. In Assam alone there are around 30 militant organisations combating against the state to achieve their political as well as socio economic objectives. Leading militant organisations operating in North East India are United Liberation Front of Assam (ULFA), National Democratic Front of Bodoland (NDFB), Bodo Liberation Tiger force (BLTF), Bodo Security Force (BDSF) and Bodo Volunteer Force (BVF). The United Liberation Front of Asom (ULFA), the People's Liberation Army and Kuki National Front in Manipur, and the All Tripura Tigers Front and the Bru Liberation Tigers Front operating in and around Tripura have been extensively using mines and IEDs to target the security forces.³³⁸ The movement led by the International Campaign to Ban Landmines across the globe predisposed a number of non state actors to support the cause of global landmine ban. Various NSAs taking the humanitarian crisis into consideration have taken an initiative to ban the use of mines. On October 17, 2003, the National Socialist Council of Nagaland state, the oldest and most influential armed opposition group in northeast India, signed the 'Geneva Call Deed of Commitment' committing it to the antipersonnel mine ban.³³⁹ The NSAs mine in and around their military camps in order to maintain distance from the armed forces. UNLF and the Kangleipak Communist Party extensively use victim activated explosives. Most of the mines and IEDs discovered by the security forces are found in and around the areas occupied by the militant groups.

In December 2008, security forces reportedly recovered 15 antipersonnel mines, among other weapons, from a camp of the Kanglei Yawol Kanna Lup, an armed group operating in Manipur.³⁴⁰ In January 2009, the security forces recovered anti-personnel mines among other weapons from a camp of the Karbi Longri North Cachar Hills Liberation Front, an armed group operating in Assam and also from various militants of the National Liberation Front of Tripura and its associate Borok National Council of Tripura. Though there has been

³³⁷ International Campaign to Ban Landmines, (2006), *Landmine Monitor Report 2006: Towards a Mine Free World*, Human Rights Watch, USA.

³³⁸ International Campaign to Ban Landmines, (2006), *Landmine Monitor Report 2006: Towards a Mine Free World*, Human Rights Watch, USA.

³³⁹ International Campaign to Ban Landmines, (2005), *Landmine Monitor Report 2005: Towards a Mine Free World*, Human Rights Watch, USA. . [Online: Web] Accessed on 19 March , 2010, URL: <http://www.themonitor.org/index.php/publications/display?url=lm/2005/>

³⁴⁰ "North East India is Second Highest Landmine Affected Region in India." [Online: Web] Accessed on 13 march, 2010, URL: <http://www.freepressrelease.com/northeast-india-highest-landmine-affected-region-india-3000-indians-died-due-landmines-2000-injured-10-years/755/>

considerable decrease in the use of mines and IEDs, North East India has witnessed a substantial increase in the number of casualties caused by mines and IEDs. Most of the mine technology and IEDs to the NSAs operating in north east are transferred by the Burmese rebel groups. ULFA insurgents in Assam have allegedly been trained by Pakistani intelligence services in the handling of explosives and timing devices.³⁴¹ It is very difficult to have accurate information regarding the casualties caused by the landmines and IED explosion as many of the incidents go unreported.

The NSAs have taken the humanitarian crisis into consideration which has encouraged them to give up the use of mines and IEDs. National Socialist Council of Nagalim was the first insurgent group to sign a deed of commitment with Geneva Call in October 2003. In August 2006, the Kuki National Organization in Manipur committed to ban the use of antipersonnel mines by signing Geneva Call's Deed of Commitment. On March 4, 2009, the Zomi Reunification Organisation (ZRO) renounced mine use by signing Geneva Call's Deed of Commitment. Geneva Call stated that the ZRO began to destroy its stockpiles and clear the mines that it had laid after commencing dialogue with Geneva Call in 2008 and that the ZRO completed these tasks prior to signing the Deed of Commitment.³⁴²

The Communist Party of India Marxist-Leninist (People's War) and the Maoist Communist Centre of India (MCCI) are the two of the largest armed communist insurgencies operating actively in several Indian states like Chattisgarh, Bihar, Jharkhand, West Bengal and some parts of Andhra Pradesh. In October 2004, these groups, often referred to as Naxalites, merged to form the Communist Party of India (CPI) Maoist, the country's largest left-wing guerrilla group, with influence across 15 states.³⁴³ These groups have been extensively using mines and IEDs specially the command-detonated improvised explosive devices and pressure initiated mines in their counter insurgency operations against the state.

³⁴¹ International Campaign to Ban Landmines, (2006), *Landmine Monitor Report 2006: Towards a Mine Free World*, Human Rights Watch, USA. . [Online: Web] Accessed on 17 March , 2010, URL: <http://www.the-monitor.org/index.php/publications/display?url=lm/2006/>

³⁴²International Campaign to Ban Landmines, (2009), *Landmine Monitor Report 2009: Towards a Mine Free World*, Mine Action Canada, Canada, p.933.

³⁴³ International Campaign to Ban Landmines, (2005), *Landmine Monitor Report 2005: Towards a Mine Free World*, Human Rights Watch, USA. . [Online: Web] Accessed on 17 March , 2010, URL: <http://www.the-monitor.org/index.php/publications/display?url=lm/2005/>

Mine Ban Policy in South Asia

South Asia has been one of the highly vulnerable regions in the context of landmines as it is extremely paralysed by numerous interstate as well as intra state conflicts. Landmines have always been a bane to South Asia and have been considered as one of the legitimate weapons both by the state and non-state actors in this region and used for both defensive as well as offensive purposes. Being one of the highly mined zones in the world, South Asia approximately has 13 to 25 million mines mostly in regions like Afghanistan and borders shared by India, Pakistan and China. There has usually been a lack of consensus in South Asia on the issue of Mine Ban Treaty, as national security has always been the foremost interest.

Afghanistan

Afghanistan has been at war for almost three decades with warring factions combating with each other and various other external powers to occupy power. According to the UN Afghanistan is one of the most heavily mined countries in the world with more than 640 km square (247 square miles) of land still contaminated.³⁴⁴ One of the important weapons in the ongoing civil war in Afghanistan has been the extensive use of landmines by the various armed groups to immobilise the opponents from any sort of offensive strategy.³⁴⁵ The landmine crisis further exaggerated with the war between Mujahidin and Soviet Union in 1979 and the US intervention in 2002 against the Al-Qaeda. In fact it was the U.S that had previously supplied mines to Mujahidin fighters as part of U.S. assistance in the 1980s. This resulted in indiscriminate use of landmines including IEDs, Unexploded Ordnances (UXO), AXO, and Submunitions. Scatterable “butterfly type mines” were delivered randomly by Soviet Union aircrafts to disrupt the activities of the civilians and against the offensive strategy used by the Mujahidin’s without any consideration of mapping or mine records.³⁴⁶ It is estimated that the number of landmines in Afghanistan runs as high as 10 million. The Afghan-Pakistan and Afghan-Iran borders are heavily contaminated with landmines and IEDs. As of June 2009, Afghanistan has an estimated area of about 668 km contaminated

³⁴⁴“More Fund Needed To Rid Afghanistan of Mines :UN,” Afghanistan Conflict Monitor, 12 January 2009, [Online: Web] Accessed on 15 April, 2010, URL: <http://www.afghanconflictmonitor.org/landmines/>

³⁴⁵ Chawla, Shalini. (2000), “Diffusion of landmines in Afghanistan,” *Strategic analysis*, 24(3), p.495

³⁴⁶ “Landmines: A Deadly Legacy,” (1993), The Arms Project of Human Rights Watch and Physician for Human Rights, New York Human Rights Watch, p.145

with large amount of APMs and IEDs.³⁴⁷ Landmines have particularly disrupted the livelihood of the civilians and have adversely affected their socio-economic conditions in Afghanistan. The United Front (formerly the Northern Alliance) is continuing to use mines inside Afghanistan, and the forces of Russia (in Tajikistan), Uzbekistan, and Kyrgyzstan have been laying mines on borders. The armed conflict in Afghanistan has given an impetus for planting of new landmines by the Taliban, the United Front, and the U.S. led coalition.³⁴⁸ Approximately fifty different types of landmines have been identified in Afghanistan produced in countries like China, ex-Czechoslovakia, Iran, Italy, Pakistan, Singapore, Soviet Union, United Kingdom and Zimbabwe.³⁴⁹

Though being one of the highly mine affected countries in the world Afghanistan initially was not a party to the Mine Ban Treaty due to the prevailing political instability. In 1994-1995 during the preparatory meetings for the Review Conference of the Conventions on Conventional Weapons Afghanistan called for a ban on the production and export of landmines with an exception on use of landmines. It was in 1996 the Rabbani government declared its support for an immediate and comprehensive ban on APMs in a statement to the U.N. Human Rights Commission in Geneva.³⁵⁰ The Rabbani government voted in favour of the December 1996 U.N. General Assembly Resolutions calling on states to vigorously pursue an international agreement banning APMs. But unfortunately it was absent for votes on the pro ban UNGA resolution in 1997 and 1998.³⁵¹ The government was part of the Ottawa proceedings, but did not endorse the pro ban treaty in the Brussels declaration in 1997 and did not participate in the Oslo negotiations in September 1997.³⁵² Afghanistan acceded to the Mine Ban Treaty on 11 September 2002, becoming a signatory on March 1 2003.³⁵³

There have been no records of landmine production or exports from Afghanistan. The existing landmines stockpiles have been destroyed as per the regulations of the Mine Ban Treaty. In its latest report of Article 7 Afghanistan has stated that an additional 64,498

³⁴⁷ International Campaign to Ban Landmines, (2009), *Landmine Monitor Report 2009: Towards a Mine Free World*, Mine Action Canada, Canada, p.95.

³⁴⁸ "Landmines Use in Afghanistan," (2001), Human Rights Watch Backgrounder, p.2.

³⁴⁹ International Campaign to Ban Landmines, *Landmine Monitor Report 1999*, p.436.

³⁵⁰ International Campaign to Ban Landmines, (2000), *Landmine Monitor Report 2000: Towards a Mine Free World*, Human Rights Watch, USA, p-434.

³⁵¹ *Ibid*, p.434.

³⁵² *Ibid*, p.434.

³⁵³ International Campaign to Ban Landmines, (2009), *Landmine Monitor Report 2009: Towards a Mine Free World*, Mine Action Canada, Canada, p.99.

stockpiled APMs were destroyed in 2008.³⁵⁴ The Mine Action Programme of Afghanistan (MAPA) is one of the world's largest mine clearance programmes combined with the UN Mine Action Centre of Afghanistan (UNMACA). Besides, there is also the 'Mine Action Coordination Centre for Afghanistan' (MACCA).³⁵⁵ The Afghanistan mine action programme being the world's largest and oldest was restructured in 2007 in order to enhance the efficiency of the programmes implemented. MACA, MAPA and MACCA are entitled with the responsibility of coordinating all the aspects of mine action programme including risk education and victim assistance and drawing up strategies for future mine action plans.³⁵⁶ Afghanistan campaign to ban landmines was also established in partnership with the Mine Action Centre, UNICEF and over sixty NGOs in order to increase the awareness of mine action among the civilians.³⁵⁷

At present Afghanistan has not adopted any sort of national implementation measure on mine ban. Showing its presence in the Ninth Meeting of the State Parties in the Geneva in November 1998 and intersessional committee meeting in May 2009, Afghanistan has put forward certain statements on victim assistance and mine clearance. It has not come up with any kind of observation on Article 1, 2 and 3 of the Ottawa Treaty which pertains to the joint military operations with states not party, foreign stockpiling and transit of antipersonnel mines, antivehicle mines with sensitive fuses or antihandling devices, and mines retained for training.³⁵⁸ In the past 10 years there have been far-reaching changes in clearing the existing landmine crisis. The Mine Risk Education programme conducted with the partnership of 15 organisations has reached around 3.5 million people.³⁵⁹ The only hindrance Afghanistan is facing is the lack of effective infrastructure which is inevitable for an effective Mine Clearance Programmes.

³⁵⁴Ibid, p.100

³⁵⁵"Mine Action Coordination Centre of Afghanistan," [Online: Web] Accessed on 7 March, 2010, URL: <http://www.mineaction.org/org.asp?o=17>.

³⁵⁶"Afghanistan Mine Ban Policy," Landmine and Cluster Munition Monitor, [Online: Web] Accessed on 19 November, 2010, URL: <http://www.the-monitor.org>.

³⁵⁷ Htun Nay, (2004), "Landmines Prolong Conflicts and impede socio- economic Development," in Mathew A Richard, Mc Donald Bryan, (eds.), *Landmines And Human Security: International Politics and War's Hidden Legacy*, Nay Htun, USA, State University of New York Press, p.172.

³⁵⁸ International Campaign to Ban Landmines, (2009), *Landmine Monitor Report 2009: Towards a Mine Free World*, Mine Action Canada, Canada, p.99.

³⁵⁹Ibid, p.98

Bangladesh

Bangladesh is the first South Asian country to have signed and ratified the Mine Ban Treaty. It actively took part in the Ottawa process, being present in the Oslo negotiations only as an observer. In April 1998 Bangladesh undertook an in-depth examination of the utility of the APMs, which according to some of the analysts ultimately was a political decision to take precedence over the military.³⁶⁰ Although Bangladesh is not extremely afflicted by landmines along the borders of Burma but mines have been planted in the Chittagong hill tracts by the Burmese military forces to evade cross border guerrilla activities. Bangladesh signed the Mine Ban Treaty on 7 May 1998 and ratified it on 6 September 2000. It has actively shown its presence in the Meetings of the State Parties in Mozambique in May 1999 as well as the Hague Appeal for Peace Conference in Netherlands in May 1999. It has consequently voted for the pro ban treaty in the in the UNGA Resolution in 1997, 1998, 1999. Announcing its ratification at the Second Meeting of States Parties in 2000, Bangladesh delegation stated that, "Complete and general disarmament is a Constitutional commitment for Bangladesh."³⁶¹ In August 2001 it established a national committee to supervise the effective implementation of the treaty. As of now, Bangladesh has not implemented a domestic legislation on mine ban. In spite of its presence in the Ninth Meeting of the State Parties in the Geneva in November 1998 and intersessional committee meeting in May 2009, Bangladesh has not made any statements on the mine ban developments. In the Second Meeting of the State Parties in Geneva in 2000, H.E Iftekar Ahmed Choudary ambassador and permanent representative of Bangladesh said that "The overriding factors that guided our decision to ratify were not only our constitutional commitment, but genuine humanitarian consideration and moral obligation that we hold as peace loving country."³⁶²

Though Bangladesh is a member of the Conference of Disarmament (CD) it has not been as strong advocate of the CD policies in spite of it signing the Amended Protocol II of the CCW pertaining to landmines in 2001. At the Third Annual Meeting of the State Parties to CCW Amended Protocol II in December 2001, Ambassador Dr.Toufiq Ali stated that, "as a party of the Ottawa Convention, we see both these as major instrument toward the mine free world. Though the production, stockpiles and global trade of APMs have been reduced significantly,

³⁶⁰Chandran. D Suba and Joseph, Mallika A. (2000), n.19, p.39

³⁶¹ Landmine and Cluster Munition Monitor, (2004), Bangladesh, [Online: Web] Accessed on 13 march, 2010, URL: <http://www.the-monitor.org/lm/2004/bangladesh.html>.

³⁶²Chandran. D Suba and Joseph, Mallika A. (2000), n.19, p. 40

further transparency on usage, production and stockpiles and other mine related matters are essential.”³⁶³ From September 2003 to December 2005 Bangladesh became co-rapporteur of the Standing Committee on Stockpile Destruction. Being the co-rapporteur of the ‘Standing Committee of the on Stockpile Destruction’ Bangladesh followed firm measures on stockpile destruction. By February 2005 it had destroyed 204,227 APMs of its stockpiles.³⁶⁴ It submitted an Annual Amended Protocol II Article 13 Report in 2006 which is associated to the consultation of the high contracting parties wherein the state parties consult and cooperate with other on all the issues related to the effective implementation of the protocol.³⁶⁵ Bangladeshi defence officials affirm that their country does not produce mines or export them elsewhere. On the contrary they claim that mines are produced by countries like India, China, and the United States.

Maldives

Maldives is second country in South Asia to have signed and ratified the Mine Ban Treaty. Maldives signed the Mine Ban Treaty on October 1, 1998, further ratifying it on September 7, 2000.³⁶⁶ It has also signed the Amended Protocol II of the CCW on September 2000. But it has not been a part of the any of the diplomatic meetings associated to the Mine Ban Treaty, even as it has voted in favour of all pro ban UNGA Resolutions since 1996 including the resolution passed in 1999 in favour of the Mine Ban Treaty. Maldives does not use, produce, stockpile or trade the APMs. It is completely immune from landmine problems unlike other South Asian countries.

Bhutan

Though it has had very little involvement in the Ottawa process, the Kingdom of Bhutan acceded to the treaty in August 2005. Bhutan doesn’t encompass any sort of domestic legislation on mine bans. In spite of its absence in the diplomatic meetings related to the

³⁶³International Campaign to Ban Landmines, (2002), *Landmine Monitor Report 2002: Towards a Mine Free World*, Human Rights Watch, USA, p.97-98.

³⁶⁴ International Campaign to Ban Landmines, (2009), *Landmine Monitor Report 2009: Towards a Mine Free World*, Mine Action Canada, Canada, p.190.

³⁶⁵Protocol on Prohibition or Restrictions on the Use of Mines, Booby Traps and other devices as amended as amended on 3 May 1996 (Protocol II to the 1980 Convention as amended on 3 May 1996). Article 13 of the Protocol II of the CCW 1980 permits for a conference of the high contracting parties will be held primarily for the review of the operation of the Protocol. The contracting parties have to prepare an annual report on the matters related to mine clearance, rehabilitation programme and also measures taken on international cooperation on mine clearance and various other technical cooperation and assistance.

³⁶⁶ International Campaign to Ban Landmines, (2009), *Landmine Monitor Report 2009: Towards a Mine Free World*, Mine Action Canada, Canada, p.850.

landmine ban, it has voted in favour of all pro-ban UNGA resolutions since 1996 including the December 1999 resolution supporting the Mine Ban Treaty. Bhutan also sent its representative to the ICRC South Asia Regional seminar on Landmines held in Sri Lanka in August 1999. Submitting the Article 7 Transparency Report in 2007 Bhutan has revealed a stockpile of 4419 APMs, all of which has been retained for training purposes.³⁶⁷ Unlike the other South Asian countries Bhutan is considerably immune from the problem of landmines.

Pakistan

Pakistan has been a strong defender with regard to the use of the APMs in defence. Pakistan views that the issue of national security is of paramount importance for which the use of APMs is a necessity. Since the inception of the Mine Ban Treaty, Pakistan has consistently maintained that though it supports the objective of complete elimination of APMs, it restrains itself from entering the Ottawa treaty. It claims that the major reason for its restraint is the issue of national security. On the other hand Pakistan has been the first country to have ratified the Amended Protocol II of CCW. Pakistan armed forces believe that APMs are an essential components of the defence strategy both for the potential future conflict with India and for the situation in Jammu and Kashmir.³⁶⁸ For Pakistan landmines have been one of the indispensable weapons and they have used them vigorously during their three wars against India in 1941, 1962 and 1971. The Line of Control as well as the Pakistan occupied Kashmir has been heavily mined by the Pakistani troops.

Maintaining its reservations on the Mine Ban Treaty the director general of disarmament in the Foreign Affairs Ministry of Pakistan said in January 2001 that, "We fully subscribe to the goal of the eventual elimination of landmines and once again I hope to assure you that our actions do not stand against the objectives of the [Mine Ban Treaty] our non adherence to the 1997 Treaty is principally based on our security concerns along our Eastern border and the Line of Control and not because we favour any measures that may harm civilians. Unless a viable alternative to the use of landmines for defence purposes is available, countries like Pakistan would find it difficult to join the Convention."³⁶⁹

³⁶⁷ International Campaign to Ban Landmines, (2009), *Landmine Monitor Report 2009: Towards a Mine Free World*, Mine Action Canada, Canada, p.201.

³⁶⁸ Chandran, D Suba and Joseph, Mallika A. (2000), n.19, p.58

³⁶⁹ Human Rights Watch Backgrounder, (2002), Recent Landmine Use by India and Pakistan, p.3

As a party to the Amended Protocol II of the CCW, Pakistan has shown its presence in the Third Annual Conference of the State Parties to the Amended Protocol II in December 2001, submitting its annual report as per the regulations under Article 13 of the Amended protocol II. In the First Annual Conference of State Parties to the Amended Protocol II of the CCW in Geneva in December 1999, Pakistan said the “membership to the Protocol II represents a global partnership of those who have been able to assume obligations to completely prohibit anti-personnel landmines and others who seek to balance their military and security compulsions with critical humanitarian consideration.”³⁷⁰ In addition Pakistan proposed the appointment of the Special Co-ordinator to precede the objective of the ultimate prohibition of APLs. Pakistan feels that the Ottawa process has a majority driven approach and therefore it would prefer a consensus based approach of the Conference of Disarmament (CD). It has shown its absence even as an observer in the Meetings of the State Parties held in Mozambique in 1999 and Switzerland in 2000. Pakistan has also abstained itself from all the pro Mine Ban Treaty UNGA Resolution conducted annually. In December 2008, Pakistan abstained from voting on UN General Assembly Resolution 63/42 calling for universalisation of the Mine Ban Treaty.³⁷¹

Pakistan has shown an affirmative indication by its presence as an observer in the Ninth Meeting of the State Parties of the Mine Ban Treaty in Geneva in November 2008. As per the statement made by the Pakistan Ministry of Foreign Affairs in April 2009, “Pakistan remains committed to pursue the objectives of a universal and non-discriminatory ban on anti-personnel mines in a manner which takes into account the legitimate defence requirements of States. Given our security compulsions and the need to guard our long borders, not protected by any natural obstacle, the use of landmines forms an important part of our self-defence strategy. As such, it is not possible for Pakistan to agree to the demands for the complete prohibition of anti-personnel landmines till such time that viable alternatives are available.”³⁷² Pakistan is an active landmine producer having a state owned Pakistan Ordnance Factories (POF). It produces around six types of APMs including bounding fragmentation mines as well as two directional fragmentation mines, and is currently working on the production of self deactivating or self destructing mines in order to meet the

³⁷⁰Statement by the Representative of Pakistan at the First Annual Conference of High Contracting Parties to the Amended Protocol II, Geneva, 17 December 1999, Online: Web] Accessed on 18 September, 2010, URL: <http://www.unog.ch/...nsf/.../09bbf01b6a375170c12574890050d806>.

³⁷¹International Campaign to Ban Landmines, (2009), *Landmine Monitor Report 2009: Towards a Mine Free World*, Mine Action Canada, Canada, p.1056.

³⁷²Ibid, p.1056

requirements of the Amended Protocol II.³⁷³ In the past Pakistan has been one of the leading landmine exporters. In order to keep up its objective of eliminating APMs on March 13, 1997, it declared a comprehensive moratorium of unlimited duration on the exports of the APMs. As a part of its export regulatory policy Pakistan issued a Statutory Regulatory Order No. 123 (1) on February 25, 1999.³⁷⁴ Pakistan claims that since 1991 it was not involved in any sort of exports of landmines. In spite of Pakistan being a state party to the Amended Protocol II, it has been accused of selling mines in the violation of its protocol II obligations. Pakistan made mines have been found in Afghanistan, Bangladesh, Ethiopia, Sri Lanka and elsewhere. Allegations have been made on Pakistan for supplying mines to the armed groups fighting in the state of Jammu and Kashmir in 1999 during the Kargil war and also in the federally administered tribal areas of Pakistan. Pakistan strengthens its stand on the legitimate use of the APMs in its defence strategies by stressing on its particular geographical conditions and threats to its national security. It places additional significance on security concerns rather than issues of humanitarian concerns.

Nepal

Nepal is one of the landmine afflicted countries in Asia due to its decade long turmoil against the monarchical rule. Nepal is not a party to the Ottawa treaty as well as the Mine Ban Treaty of Protocol II of the CCW. The Nepal government had given an assorted reaction in supporting the Ottawa Treaty as government forces used mines in an increased number against the Maoists. Since 1999, there was widespread use of APMs by the Nepali Security Forces as well as increased use of Improvised Explosive Devices (IEDs) by the Maoist rebels.³⁷⁵ According to the landmine monitor report 2005, Nepal was one of the only three countries where the government forces used the APMs. As many as 73 out of Nepal's 75 districts are landmine and IED contaminated.³⁷⁶ After experiencing the decade long civil conflict, the Nepal government as well as the Maoists assured that they would take a positive

³⁷³Human Rights Watch Backgrounder, (2002), *Recent Landmine Use by India and Pakistan*, p.4. International Campaign to Ban Landmines, (2009), *Landmine Monitor Report 2009: Towards a Mine Free World*, Mine Action Canada, Canada, p.1058.

³⁷⁴ Chandran. D Suba and Joseph, Mallika A. (2000), n.19, p.60. International Campaign to Ban Landmines, (2009), *Landmine Monitor Report 2009: Towards a Mine Free World*, Mine Action Canada, Canada, p.1058.

³⁷⁵Ottawa Treaty Universalisation in South Asia, Nepal Fact Sheet, [Online: Web] Accessed on 11 April, 2010, URL: www.landmineaction.org/resources/Nepal.

³⁷⁶ Singh, Satnam Jit (2009), Nepal A Good Candidate For Early Succession, [Online: Web] Accessed on 13 march, 2010, URL: www.icbl.org/index.php/icbl/Library/News-Articles/08/univnepal.

step towards the Mine Ban Treaty once the political stability is regained in Nepal. Nepal voted in favour of every pro-ban UNGA Resolution from 1996 to 2006, but did not attend the Ninth Meeting of the State Parties of the Mine Ban Treaty in November 2008 in Geneva.³⁷⁷ It also abstained from voting on the annual UN General Assembly Resolution 63/42 calling for universalisation and implementation of the mine ban treaty. It was also absent for the intersessional Standing Committee meetings conducted in May 2009.³⁷⁸

Mine use was prohibited under the May 2006 ceasefire agreement and subsequent November 2006 Comprehensive Peace Agreement (CPA).³⁷⁹ The November 2006 CPA committed the government and the Unified Communist Party of Nepal, Maoist (UCPN/M) rebels to halt the use of landmines, and required the parties to assist each in mine clearance including booby traps within certain period of time.³⁸⁰ There has been a serious attempt made by the Nepal government along with the Nepal Campaign to Ban Landmines (NCBL) to move towards the Mine Ban Treaty. NCBL received signatures of 13 out of 25 political parties in the Constituent Assembly to a “Letter of Commitment” to pursue accession to the Mine Ban Treaty.³⁸¹ On 10 August 2008, the Minister of Peace and Reconstruction, Ram Chandra Poudel, signed the August Declaration on Mine Action and the Ottawa Treaty, prepared by the Nepal Campaign to Ban Landmines (NCBL) which stated that, “We will make efforts to create an environment conducive to making the Nepal government sign the Mine Ban Treaty and enforce it immediately on our respective behalf.”³⁸² The latter developments show a positive indication in the mine ban policy of Nepal but this can only be accomplished with the majority consensus of the various political parties and genuine interests regarding the humanitarian crisis caused by the APMs.

Sri Lanka

Sri Lanka is not a signatory to the Mine Ban Treaty. It claims that its stay back from the treaty is due to the issues of security that face the country on account of the conflict with the Liberation of Tamil Tiger Eelam ((LTTE). The foremost reasons put forward by Srilanka for not acceding to Ottawa treaty was the indiscriminate use of landmines and IEDs by the LTTE

³⁷⁷International Campaign to Ban Landmines, (2009), *Landmine Monitor Report 2009: Towards a Mine Free World*, Mine Action Canada, Canada, p.1042.

³⁷⁸ Ibid, p.1042.

³⁷⁹International Campaign to Ban Landmines, (2009), *Landmine Monitor Report 2009: Towards a Mine Free World*, Mine Action Canada, Canada, p.1041.

³⁸⁰ Ibid, p.1041.

³⁸¹ Landmine Monitor Report: Towards a Mine Free World, 2008. lm.icbl.org/lm/2008/countries/pdf/Nepal.

³⁸²International Campaign to Ban Landmines, (2009), *Landmine Monitor Report 2009: Towards a Mine Free World*, Mine Action Canada, Canada, p.1042.

and the importance of landmines as a weapon of defence in their military strategy. In spite of the existing turmoil in the country the Srilankan government responded to the developments that the Mine Ban Treaty was going through. First it is a party to the Amended Protocol II of the CCW and has ratified it in 2004. Srilanka voted in favour of UNGA Resolution 56/24M in November 2001, calling for an universalisation of the mine ban treaty.³⁸³ It represented as an observer in the Second Meeting of the State Parties in Switzerland in 2000. It also participated in the Bangkok Workshop on Achieving a Mine Free South-East Asia in April 2009. However, Sri Lanka did not attend the intersessional Standing Committee meetings in May 2009.

After a formal cease fire in 2002, the use of landmines reduced considerably in Srilanka. Responding to the initiative taken by the International Religious Peace foundation for the first time, LTTE expressed their support to ban the APMs. In October 2002 the Srilankan government and the LTTE came to consensus with a formal agreement banning the use of APMs as Srilanka voluntarily submitted the Article 7 Transparency Report.³⁸⁴ The report gave the factual data regarding the area contaminated by mines and IEDs in Srilanka. However, as the conflict intensified LTTE resumed the use of APMs in 2005 and used large number of mines especially in the Jaffna province in order to halt the progress of the Srilankan forces. At the same time even the Srilankan government was accused of using landmines, although it was denied by the armed forces. In 2008 as the conflict intensified to the extreme, the northern Jaffna province had been extensively mined by the LTTE.

Though the ethnic conflict has come to an end, Srilanka is in a status of disorder due to the landmine crisis it is facing. According to the United Nations Refugee Agency (UNHCR) there are around 90,000 internally displaced people have returned to their villages in Sri Lanka's north and east but there has been a wide range of problem the resettlement programme is facing due to the threat posed by the unexploded landmines. At present mine clearance has become one of the foremost objective of the Srilankan government. After a visit by UN Secretary General Ban Ki-Moon in May 2009, Sri Lanka has called for international support for de-mining, and the Presidential Task Force for Resettlement, Development and Security in the Northern Province have been working constantly in de-

³⁸³ International Campaign to Ban Landmines, (2002), *Landmine Monitor Report 2002: Towards a Mine Free World*, Human Rights Watch, USA, p.746.

³⁸⁴ International Campaign to Ban Landmines, (2009), *Landmine Monitor Report 2009: Towards a Mine Free World*, Mine Action Canada, Canada, p.1101.

mining operations to enable the resettlement of the displaced people and to restart the development activities.³⁸⁵ At a recent workshop in Bangkok in April 2009 on Achieving a Mine Free South East Asia Brigadier Lasantha Wickramasuriya of the Srilankan Army acknowledged that though Srilankan army has used landmines in the past, at present they are not involved in any kind of landmine use. But the consequences Srilanka is facing due the indiscriminate use of landmines both by the government as well as LTTE has left an interminable impact on the civilians. Thus Srilanka has to alter its mine clearance projects in an extremely effective manner to get back to the normal position.

Use of Landmines by Non state Actors in South Asia

South Asian region being one of the major conflict zones in the world has seriously been paralysed by the disturbance caused by the non-state actors. Landmines and IEDS have always played a prominent role in the inter-state and intra-state conflicts due to its easy accessibility and low cost. Guerrilla warfare has been fundamental focus in the defensive strategies of all the non state actors operating in various parts of South Asia. IEDs and landmines offer maximum flexibility on human resources, less material input but more in terms of damage caused and therefore its preference as a natural choice for the non-state actors.³⁸⁶ The post colonial period in South Asia has faced a series of separatist movements primarily against the government. All most all the countries including India, Pakistan, Afghanistan, Srilanka, Nepal and to a certain extent Bhutan have been afflicted by a number of indigenous movements which have mostly targeted the state. Other than India, Srilanka has been at war for almost three decades against the LTTE. Being one of the well organised and structured organisations LTTE has been quite efficient in the landmine production. It was known to produce several types of antipersonnel mines: Jony 95 (a small wooden box mine), Rangan 99 or Jony 99 (a copy of the P4 MK1 Pakistani mine), SN 96 (a Claymore-type mine), fragmentation antipersonnel mines from mortars, and variants of some of these antipersonnel. Mines, including some with antihandling features, as well as Amman 2000, MK1, and MK2 antivehicle mines.³⁸⁷ LTTE has been singled out as a major user of landmines and IEDs compared to any other militant organisation.³⁸⁸ It has also produced

³⁸⁵ Ibid, p.1111

³⁸⁶ Chandran. D Suba and Joseph, Mallika A. (2000), n.19, p.13

³⁸⁷ International Campaign to Ban Landmines, (2009), *Landmine Monitor Report 2009: Towards a Mine Free World*, Mine Action Canada, Canada, p.1102-1104.

³⁸⁸ Deen, Thalif (1999), NGOs wants Rebels Groups to ban Use of Landmines. [Online: Web] Accessed on 15 April, 2010, URL: [http:// www.globalpolicy.org/component/content/article/175/31350.html](http://www.globalpolicy.org/component/content/article/175/31350.html)

indigenous mines in significant number like the “Jony Mine”, which is much more lethal than known conventional mines.³⁸⁹ Jony Mines have been extensively used for defensive as well as offensive purposes.

The conflict between the Srilankan government and the LTTE has made the northern region of Srilanka practically a mine field. According to the Srilankan army the northern region is contaminated with an estimated 1.5 million mines and unexploded ordnances covering an area of 500 square kilometres.³⁹⁰ In 2009 when the war intensified between Srilankan forces and the LTTE, LTTE mined the densely populated LTTE controlled areas Theravikulam, Visuamadu and Puthukudiyirippu in Mullaitivu to prevent the civilians fleeing to the government controlled areas.³⁹¹ In an attempt to hold back the cadres due to the heavy military push LTTE was facing they buried large number of APMs and thus slow down the movement of the Srilankan forces. With the end of the ethnic conflict in May 2009 the scope of using landmines has narrowed down to a large extent, but on the other hand the uncleared mined area is an impediment for thousands of civilians to get back to normalcy.

Being one of the highly mined countries in the world, Afghanistan has been battered by various factions. The civil war and the conflict between the regional powers are the foremost reasons for the landmine problem it is facing. The Taliban forces as well as the Al-Qaeda use both landmines and IEDs in order to impede the movement of the opponent forces. The officials are uncertain regarding the manufacture of landmines and IEDs used in Afghanistan. According to a NATO spokesman Pakistan has been a principle supplier of Ammonium Nitrate and to a certain extent it is also supplied by China and Iran.³⁹² The Taliban Foreign Ministry official Sattar Paktis declared in Kabul that the policy of Islamic Emirate of Afghanistan is that production, trade and stockpiling of mines should be banned and eradicated from the globe. The Taliban leader Mullah Muhammad Omer in October 1998 issued a statement that Taliban strongly condemned the use of landmines as un-Islamic and

³⁸⁹ Chandran, D Suba and Joseph, Mallika A, (2000), n.19, p.9. See, International Campaign to Ban Landmines, (2002), *Landmine Monitor Report 2002: Towards a Mine Free World*, Human Rights Watch, USA, p.509.

³⁹⁰ Tighe, Paul and Shankar, Jay (2009), “Srilanka Says Tamil Tigers International Network Still Active,” [Online: Web] Accessed on 14 April 2010, URL: http://www.bloomberg.com/apps/news?pid=email_en&sid=aVENP9P9R8iQ

³⁹¹ Sriyananda, Shanika. (2009), “LTTE lays Landmines to Stop Fleeing Civilians,” Ministry of Defence, Public Security, Law and Order: Srilanka. [Online: Web] Accessed on 15 April, 2010, URL: http://www.defence.lk/new.asp?fname=20090125_01

³⁹² “Afghanistan: Taliban IEDs Take Toll on Civilians,” A Project of the UN Office for the coordination of the Humanitarian Affairs (2010), [Online: Web] Accessed on 20 April, 2010, URL: <http://ipsnews.net/news.asp?idnews=39174>.

anti-human act further expressing a strong support.³⁹³ But with the increase in the military activity in 2008 Taliban has been accused of using large number of APMs against the opponent forces. Qari Yusuf, an alleged spokesman for the Taliban, reportedly confirmed the planting of new mines against the Afghan army and international forces.³⁹⁴

In 2007 Taliban forces operating in the Helmand provinces planted large number of APMs but mostly IEDs against the NATO forces. According to the UN 2008 has been considered has one of the violent years ever faced by Afghanistan since 2001. International Security Assistance Force (ISAF) force levels have increased and violence has risen sharply in the south, southeast, and southwest of the country. Insurgent attacks have increased to the extent that they have been targeting areas which have been generally considered stable in the past. There have also been high-profile coordinated attacks against multiple government ministries in Kabul in February 2009.³⁹⁵ Taliban and the Hizb-e-Islami militia of Gulbudin Hekmatyar have been extensively attacking the military personnels and also the ISAF troops especially using command denoted IEDs.³⁹⁶ Mines are responsible for depopulating vast tracts of the countryside, affecting food supplies into the cities and crop harvests.³⁹⁷ APMs and Anti-tank mines have been planted indiscriminately, hampering the access of civilians to the agricultural land.³⁹⁸ The conflict in Afghanistan seems to be uncertain and unless and until the conflict between these various factions come to an end the use of landmines and IEDs will continue and the large number of unexploded ordinances will pose a never ending threat to the civilians.

Insurgent groups in South Asia have been operating in an undemocratic manner against the state to meet their aims and objective. Similarly ever since the Maoist insurgency began in 1996, it has pushed Nepal into an appalling political turmoil and insecurity claiming thousands of lives.³⁹⁹ The use of mines and IEDs by the Maoists increased considerably in the

³⁹³Chawla, Shalini. (2000), "Diffusion of landmines in Afghanistan," *Strategic analysis*, 24(3), p.499.

³⁹⁴ "Afghanistan: ICBL Concerned by Taliban Mine Use Allegation," [Online: Web] Accessed on 15 April, 2010, URL: <http://www.icbl.org/index.php/icbl/layout/set/print/Library/Taliban-mines>.

³⁹⁵ International Campaign to Ban Landmines, (2009), *Landmine Monitor Report 2009: Towards a Mine Free World*, Mine Action Canada, Canada, p.100.

³⁹⁶ Ibid, p.101

³⁹⁷"Afghanistan Landmine Fact Sheet," International Campaign to Ban Landmines, [Online Web], Accessed On 12 September, 2010, URL: <http://www.afghan-network.net/Landmines/>

³⁹⁸ "Explosive Remnants of War and Mines other than Anti-Personnel Mines: Global Survey 2003-2004," (March 2005), UK, Landmine Action, p.14.

³⁹⁹Thapa Manish, "Evolution of Maoism in Nepal: Understanding Maoist Insurgency from a Wider Perspective," [Online: Web] Accessed on 12 April, 2010, URL: www.gdnet.org/cms.php?id=document_download&document_id

period from 1999-2002. During this period they established mining groups specially trained to mine in various districts.⁴⁰⁰ By 2002 almost all the 75 districts in the country were heavily contaminated by mines and IEDs.⁴⁰¹ Maoists have used landmines in a significant number as a counter measure against the Nepalese army.

The Maoists are considered an expert in the production of mines and IEDs. They generally use victim-activated mines (pressure and tripwire), command-detonated mines (remote control), and explosive devices with timers. They have also used “bucket bombs,” “pipe bombs,” and “pressure-cooker bombs,” with detonators.⁴⁰² Maoists have a close association with Peoples War Group in the Indian state of Andhra Pradesh who supply them materials required for the production of mines and IEDs like steel containers, explosive gelatine and triggering devices.⁴⁰³

There has been serious effort by the civil society in order to educate and engage the non state actors in banning the use of landmines. Since 2000 thirty four armed non-State actors (NSAs) have signed the Geneva Call Deed of Commitment for Adherence to a Total Ban on Anti-Personnel Mines and for Cooperation in Mine Action.⁴⁰⁴ The review of the CCW stated that “The States Parties [to the Mine Ban Convention] have affirmed that progress to free the world from anti-personnel mines will be enhanced if armed non-State actors embraced the international norm established by the Convention. Impressive progress has been made with armed non-State actors within the following States which have adhered to the Geneva Call’s Deed of Commitment for Adherence to a Total Ban on Anti-Personnel Mines and for Cooperation in Mine Action: Burundi, India, Iraq, Myanmar, the Philippines, Somalia and Sudan.”⁴⁰⁵ However there are numbers of NSAs who are still engaged in the use and production of anti-personnel mines which is adversely affecting the credibility of the law banning landmines.

⁴⁰⁰ Ibid, p.719

⁴⁰¹ International Campaign to Ban Landmines, (2009), *Landmine Monitor Report 2002: Towards a Mine Free World*, Human Rights Watch, USA.

⁴⁰² “Landmine and Cluster Munition Monitor,” [Online: Web] Accessed on 25 April, 2010, URL: www.the-monitor.org/index.php/publications/display?url/Nepal.

⁴⁰³ International Campaign to Ban Landmines, (2002), *Landmine Monitor Report 2002: Towards a Mine Free World*, Human Rights Watch, USA, p.719.

⁴⁰⁴ “Engaging Armed State Non Actors in a Landmine Ban,” The Geneva Call Progress Report 2000-2007, [Online: Web] Accessed on 10 April, 2010, URL: www.genevacall.org/resources/research/f.../gc-2007-progress-report.

⁴⁰⁵ “Review of the Operation and Status of the Convention on the prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction 1994-2000.” [Online: Web] Accessed on 10 April, 2010, URL: www.genevacall.org/resources/research/f.../gc-2007-progress-report.

Chapter-V

CONCLUSION

This study aimed to analyse landmine policy of India from the multidimensional aspects. It essentially looked into the security perspective of Indian defence strategies and it also tried to explore the main motives behind the use of landmines as an important weapon for defensive purposes in India. The influence of the landmine conventions on South Asian region including state as well as non-state actors has been looked at while analysing the implications on the region in reference to non-membership of India and Pakistan of the landmine Convention.

The first part of this study dealt with the genesis of landmines from its evolution to present form in different aspects. The nomenclature of landmines has gone through a major transformation from a simple defensive tool to a precarious weapon; a weapon which was used as a simple tool of defence has become one of the uncertain and perilous weapons in the world. Landmines have used extensively by states in order to promote and protect the national security along with development of countries in various aspects -economic, political, security, scientific and technological and so on. The most developed country like USA and even an underdeveloped country like Cambodia have kept the option of landmines as one of the indispensable weapons. Moreover, non-state actors have been using landmines for defensive as well as offensive purposes. The cost effectiveness, easy accessibility and especially the offensive effect of the weapon has compelled the factions and forces to adopt landmines as an integral part of military operations. All these have made landmine as 'poor man's weapon' while for developed countries it has remained as a cost-effective ordinance.

Laws of wars have primarily concentrated on lessening the adverse effect on civilians. Many of these conventions particularly related to the landmines called Booby Traps have been supplanted, which has further resulted in the continuous use as well as production of landmines. However, with the dynamic nature of world politics, security concerns have also experienced drastic changes while replacing it (security concerns) by humanitarian issues. The uncertain threat caused by the landmines especially in the post-conflict phase sensitised the likeminded states and the civil society for taking up an initiative against landmines use and production. Surprisingly, these serious efforts of civil society, NGOs, Humanitarian Organisations along with the support of country like Canada have been successful in initiating an even-handed

subject. The Ottawa Treaty has been a step forward among all conventions and treaties dealing with explosives especially like landmines and Booby Traps. International laws on 'war and weapons' pertaining to landmines over time re-examined and shifted its concern on humanitarian issue rather than security purpose, which became responsible for making it matter of global concern successfully.

To a great extent the Ottawa Treaty has been successful in bringing the humanitarian issues especially in post-conflict landmine-afflicted areas. Ironically, the issues concerning socio-economic conditions and the people of mine-affected areas were brought into the forefront irrespective of vital concerns of the defence issues. The Ottawa Treaty has brought definite changes in the field of disarmament. Also overall decline in the use of landmines by the non-signatory states is perceptible as well. This has been one of the major contributions of the Ottawa Treaty in the field of promotion and protection of international peace and security from the humanitarian perspective. This has greater implications even on the non-signatory states such as India, Pakistan, China, USA, have decided to put export moratorium on landmines related materials. Thus, to the large extent, the treaty has succeeded in addressing the landmine problem through humanitarian perspective.

India is located in a turmoil neighbourhood, surrounded by the undemocratic, unstable governments and also fought many wars. Pakistan is the strongest opponent in the region. Therefore India keeps the option of landmine use and but it is also a victim of landmine use by neighbouring countries. While India's landmine policy is solely guided by its security concerns as it shares long borders with its neighbouring countries, it has been sensitive to the issues like disarmament, denuclearisation. But vulnerability in the border areas of the country has compelled India to use landmines as an indispensable weapon for its defence strategy. However, the purpose of the use of landmines by India has been oriented on the basis of defence rather than on offence. Prevention of cross border terrorism has been the underlying principle behind the use of landmines by the Indian military. Militant infiltration along the vulnerable Indo-Pak border has made use of landmines inevitable. Consequently, it has been an important component of Indian defence strategy from the very day of independence. Moreover, increasing use of landmines by the non-state actors in various parts of the country has been a major headache. Due to the low cost and easy accessibility, landmines have become weapon of choice for the non-state actors operating in North Eastern India and Kashmir. The non-state actors have used them against the military indiscriminately and this

in turn has affected the civilians as well. This gives the impression that to a certain extent internal security concerns in the country have been a determining factor behind the use of landmine by Indian forces. However, external factors (infiltration, state sponsored terrorism, etc) from the region had tremendous impact on India's landmine policy.

Though India has not supported the Mine Ban Treaty in a full-fledged manner, it is ready to give up the use of landmines if an alternative is provided. In the recent years, India has been showing its presence in the Landmine Convention and is taking considerable interests in the problems caused by landmines. Currently, India is one of the mine-affected countries in South Asia. Firstly, India has to take effective steps for de-mining operation, victim assistance and also concentrate on the socio-economic development of the mine-affected areas. India, not being a signatory to the Ottawa Treaty, seems to have affected the human security perception in the South Asian region. India has always been a leader with regard to issues like disarmament. In a similar manner, India has to raise its standards by taking serious initiatives and create definite domestic policy on landmine ban encompassing ban on both production and trade. India has to remain committed to the mine related operations and has to take up an initiative to bring up a general consensus among the South Asian countries to ban landmine use. India's initiative on landmine ban in a broader sense has casted positive effects on the security perspective specially the issue of human security in South Asia.

Nevertheless, the issue of security in South Asia has to be seen in a broader sense, especially to the special consideration towards human security. The complete elimination of APMs and ATMs requires international consensus. The attainability of the common consensus on the issue of banning landmines in South Asia is in direct correspondence to the manner by which it is dealt. Very discreet manner is desirable but the practicality of this depends upon the political and security circumstances. However, Ottawa Treaty is one kind among all weapon conventions, which has been effective in implementing a disarmament convention in a broader sense. It has revived the meaning of human security and socio-economic development with respect to post-conflict regions. Thus the issue of landmines have to be more focussed through the prism of human security rather than defence. Finally, it has to be gravely considered as a humanitarian issue that has become a matter of global concern.

Though sceptical about the 1997 Mine Ban Treaty, India's position is well-articulated and has changed little in recent times despite the global momentum toward complete elimination of

the weapon. India favours a phased approach to a ban, including a prohibition on transfers and on use, except for long-term border defence; India has also proposed a ban on use of antipersonnel mines in internal armed conflicts. It is committed to the objective of a non-discriminatory and universal ban on anti-personnel landmines. However, it believes that this objective can be achieved in a meaningful way through phased approach that would enjoy international consensus, and by addressing humanitarian concerns and legitimate defence requirements of states. So it suggests first to apply ban on transfers. The basis of this phased approach would be seen as a confidence-building – enabling states to deal urgently with the humanitarian crisis, while remaining sensitive to their legitimate security needs. Essentially, what India seeking is permission of responsible use of landmines for the long-term defence of borders, perimeters, and peripheries. While India remaining concerned about the humanitarian tragedy caused by the indiscriminate export and irresponsible use of landmines, it is convinced that a global, effective and lasting solution to the problem of anti-personnel landmines require sustained international cooperation. However, India is not rigid on the issue; it remains flexible for negotiations and believes that availability of non-lethal technologies to perform the legitimate defensive role of landmines will help accelerate their complete elimination.

India, along with Russia, China and Pakistan, remains one of the largest producers of landmines, even if not an active user. On the issue of export of landmines, India has not thought to do so. It has announced a comprehensive moratorium on APM exports on 3 May 1996. Despite India banning export of landmines, the footprints of its weapons have been found in countries like Afghanistan, Eritrea, Ethiopia, Somalia, Sri Lanka, Mauritius, Tanzania and Sudan," said the Landmine Monitor Report 2007 released by the International Campaign to Ban Landmines in New Delhi. But there available no information on any Indian import of mines. However, India's stockpiling of mines may number four to five million. The great majority of mines in the stockpile are believed to be the Indian AP NM M14 mines.

As far as policy on the use of landmines, Indian Army does not believe in the doctrine of border minefields in peace. According to the Army, no mines are laid for border protection or to prevent armed infiltration in the hills, such as the one presently progress in J&K. the Indian Army claims that it has never laid mines in internal armed conflicts. However, mines are to be used only by the Indian Army. The police and paramilitary forces are not authorised to hold mines. The minefields are laid only when hostilities are imminent and detailed plans are

prepared well in advance for doing so. However, mines do not form an integral part of the defensive system in the mountains against China. Some report says while there may be uncleared mines along the India-Pakistan border in Kashmir and along the India-China border, Indian government says that that there is no problem with uncleared mines in India.

India's concern for landmine problem may be perceived from its voluntary contribution of US \$50,000 to UN demining operations in the form of a broad range of services to be rendered by Indian experts. To that extent the Indian armed forces have very extensive mine clearance capabilities. Also the Indian Campaign to Ban Landmines believes that there is a need for mine awareness programs in India as rebel groups are using mines and improvised explosives resulting in civilian and police casualties. In recent days one finds repeated news on landmine blasts by Naxal and Maoists in different parts of the country. Therefore, though the problem is at its infancy, Indian civil society and the government cannot afford to remain ignorant of the cropping humanitarian crisis out of a rising landmines and IED emergency in the country. The Indian government has a responsibility to undertake steps and to join the mine ban treaty before further lives are lost while finding alternative to address pressing security needs of the country.

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**CONVENTION ON THE PROHIBITION OF THE USE,
STOCKPILING, PRODUCTION AND TRANSFER OF
ANTI-PERSONNEL MINES AND ON THEIR DESTRUCTION**

18 September 1997

Preamble

The States Parties, Determined to put an end to the suffering and casualties caused by anti-personnel mines, that kill or maim hundreds of people every week, mostly innocent and defenceless civilians and especially children, obstruct economic development and reconstruction, inhibit the repatriation of refugees and internally displaced persons, and have other severe consequences for years after emplacement, Believing it necessary to do their utmost to contribute in an efficient and coordinated manner to face the challenge of removing anti-personnel mines placed throughout the world, and to assure their destruction,

Wishing to do their utmost in providing assistance for the care and rehabilitation, including the social and economic reintegration of mine victims, Recognizing that a total ban of anti-personnel mines would also be an important confidence-building measure, Welcoming the adoption of the Protocol on Prohibitions or Restrictions on the Use of Mines, Booby-Traps and Other Devices, as amended on 3 May 1996, annexed to the Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed to Be Excessively Injurious or to Have Indiscriminate Effects, and calling for the early ratification of this Protocol by all States which have not yet done so, Welcoming also United Nations General Assembly Resolution 51/45 S of 10 December 1996 urging all States to pursue vigorously an effective, legally-binding international agreement to ban the use, stockpiling, production and transfer of anti-personnel landmines, Welcoming furthermore the measures taken over the past years, unilaterally and multilaterally, aiming at prohibiting, restricting or suspending the use, stockpiling, production and transfer of anti-personnel mines, Stressing the role of public conscience in furthering the principles of humanity as evidenced by the call for a total ban of anti-personnel mines and recognizing the efforts to that end undertaken by the International Red Cross and Red Crescent Movement, the International Campaign to Ban Landmines and numerous other non-governmental

organizations around the world, Recalling the Ottawa Declaration of 5 October 1996 and the Brussels Declaration of 27 June 1997 urging the international community to negotiate an international and legally binding agreement prohibiting the use, stockpiling, production and transfer of anti-personnel mines, Emphasizing the desirability of attracting the adherence of all States to this Convention, and determined to work strenuously towards the promotion of its universalization in all relevant fora including, inter alia, the United Nations, the Conference on Disarmament, regional organizations, and groupings, and review conferences of the Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed to Be Excessively Injurious or to Have Indiscriminate Effects, Basing themselves on the principle of international humanitarian law that the right of the parties to an armed conflict to choose methods or means of warfare is not unlimited, on the principle that prohibits the employment in armed conflicts of weapons, projectiles and materials and methods of warfare of a nature to cause superfluous injury or unnecessary suffering and on the principle that a distinction must be made between civilians and combatants,

Have agreed as follows:

Article 1

General obligations

1. Each State Party undertakes never under any circumstances:
 - a) To use anti-personnel mines;
 - b) To develop, produce, otherwise acquire, stockpile, retain or transfer to anyone, directly or indirectly, anti-personnel mines;
 - c) To assist, encourage or induce, in any way, anyone to engage in any activity prohibited to a State Party under this Convention.
2. Each State Party undertakes to destroy or ensure the destruction of all anti-personnel mines in accordance with the provisions of this Convention.

Article 2

Definitions

1. "Anti-personnel mine" means a mine designed to be exploded by the presence, proximity or contact of a person and that will incapacitate, injure or kill one or more persons. Mines designed to be detonated by the presence, proximity or contact of a vehicle as opposed to a person, that are equipped with anti-handling devices, are not considered anti-personnel mines as a result of being so equipped.
2. "Mine" means 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 or a vehicle.
3. "Anti-handling device" means a device intended to protect a mine and which is part of, linked to, attached to or placed under the mine and which activates when an attempt is made to tamper with or otherwise intentionally disturb the mine.
4. "Transfer" involves, in addition to the physical movement of anti-personnel mines into or from national territory, the transfer of title to and control over the mines, but does not involve the transfer of territory containing emplaced anti-personnel mines.
5. "Mined area" means an area which is dangerous due to the presence or suspected presence of mines.

Article 3

Exceptions

1. Notwithstanding the general obligations under Article 1, the retention or transfer of a number of anti-personnel mines for the development of and training in mine detection, mine clearance, or mine destruction techniques is permitted. The amount of such mines shall not exceed the minimum number absolutely necessary for the above-mentioned purposes.
2. The transfer of anti-personnel mines for the purpose of destruction is permitted.

Article 4

Destruction of stockpiled anti-personnel mines

Except as provided for in Article 3, each State Party undertakes to destroy or the destruction of all stockpiled anti-personnel mines it owns or possesses, or that are under its jurisdiction or control, as soon as possible but not later than four years after the entry into force of this Convention for that State Party.

Article 5

Destruction of anti-personnel mines in mined areas

1. Each State Party undertakes to destroy or ensure the destruction of all anti-personnel mines in mined areas under its jurisdiction or control, as soon as possible but not later than ten years after the entry into force of this Convention for that State Party.
2. Each State Party shall make every effort to identify all areas under its jurisdiction or control in which anti-personnel mines are known or suspected to be emplaced and shall ensure as soon as possible that all anti-personnel mines in mined areas under its jurisdiction or control are perimeter-marked, monitored and protected by fencing or other means, to ensure the effective exclusion of civilians, until all anti-personnel mines contained therein have been destroyed. The marking shall at least be to the standards set out in the Protocol on Prohibitions or Restrictions on the Use of Mines, Booby-Traps and Other Devices, as amended on 3 May 1996, annexed to the Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed to Be Excessively Injurious or to Have Indiscriminate Effects.
3. If a State Party believes that it will be unable to destroy or ensure the destruction of all anti-personnel mines referred to in paragraph 1 within that time period, it may submit a request to a Meeting of the States Parties or a Review Conference for an extension of the deadline for completing the destruction of such anti-personnel mines, for a period of up to ten years.
4. Each request shall contain:
 - a) The duration of the proposed extension;
 - b) A detailed explanation of the reasons for the proposed extension, including:

- (i) The preparation and status of work conducted under national demining programs;
 - (ii) The financial and technical means available to the State Party for the destruction of all the anti-personnel mines; and
 - (iii) Circumstances which impede the ability of the State Party to destroy all the anti-personnel mines in mined areas;
- c) The humanitarian, social, economic, and environmental implications of the extension; and
- d) Any other information relevant to the request for the proposed extension.

5. The Meeting of the States Parties or the Review Conference shall, taking into consideration the factors contained in paragraph 4, assess the request and decide by a majority of votes of States Parties present and voting whether to grant the request for an extension period.

6. Such an extension may be renewed upon the submission of a new request in accordance with paragraphs 3, 4 and 5 of this Article. In requesting a further extension period a State Party shall submit relevant additional information on what has been undertaken in the previous extension period pursuant to this Article.

Article 6

International cooperation and assistance

1. In fulfilling its obligations under this Convention each State Party has the right to seek and receive assistance, where feasible, from other States Parties to the extent possible.
2. Each State Party undertakes to facilitate and shall have the right to participate in the fullest possible exchange of equipment, material and scientific and technological information concerning the implementation of this Convention. The States Parties shall not impose undue restrictions on the provision of mine clearance equipment and related technological information for humanitarian purposes.

3. Each State Party in a position to do so shall provide assistance for the care and rehabilitation, and social and economic reintegration, of mine victims and for mine awareness programs. Such assistance may be provided, inter alia, through the United Nations system, international, regional or national organizations or institutions, the International Committee of the Red Cross, national Red Cross and Red Crescent societies and their International Federation, non-governmental organizations, or on a bilateral basis.

4. Each State Party in a position to do so shall provide assistance for mine clearance and related activities. Such assistance may be provided, inter alia, through the United Nations system, international or regional organizations or institutions, non-governmental organizations or institutions, or on a bilateral basis, or by contributing to the United Nations Voluntary Trust Fund for Assistance in Mine Clearance, or other regional funds that deal with demining.

5. Each State Party in a position to do so shall provide assistance for the destruction of stockpiled anti-personnel mines.

6. Each State Party undertakes to provide information to the database on mine clearance established within the United Nations system, especially information concerning various means and technologies of mine clearance, and lists of experts, expert agencies or national points of contact on mine clearance.

7. States Parties may request the United Nations, regional organizations, other States Parties or other competent intergovernmental or non-governmental fora to assist its authorities in the elaboration of a national demining program to determine, inter alia:

a) The extent and scope of the anti-personnel mine problem;

b) The financial, technological and human resources that are required for the implementation of the program;

c) The estimated number of years necessary to destroy all anti-personnel mines in mined areas under the jurisdiction or control of the concerned State Party;

d) Mine awareness activities to reduce the incidence of mine-related injuries or deaths;

e) Assistance to mine victims;

f) The relationship between the Government of the concerned State Party and the relevant governmental, inter-governmental or non-governmental entities that will work in the implementation of the program.

8. Each State Party giving and receiving assistance under the provisions of this Article shall cooperate with a view to ensuring the full and prompt implementation of agreed assistance programs.

Article 7

Transparency measures

1. Each State Party shall report to the Secretary-General of the United Nations as soon as practicable, and in any event not later than 180 days after the entry into force of this Convention for that State Party on:

a) The national implementation measures referred to in Article 9;

b) The total of all stockpiled anti-personnel mines owned or possessed by it, or under its jurisdiction or control, to include a breakdown of the type, quantity and, if possible, lot numbers of each type of anti-personnel mine stockpiled;

c) To the extent possible, the location of all mined areas that contain, or are suspected to contain, anti-personnel mines under its jurisdiction or control, to include as much detail as possible regarding the type and quantity of each type of anti-personnel mine in each mined area and when they were emplaced;

d) The types, quantities and, if possible, lot numbers of all anti-personnel mines retained or transferred for the development of and training in mine detection, mine clearance or mine destruction techniques, or transferred for the purpose of destruction, as well as the institutions authorized by a State Party to retain or transfer anti-personnel mines, in accordance with Article 3;

e) The status of programs for the conversion or de-commissioning of anti-personnel mine production facilities;

f) The status of programs for the destruction of anti-personnel mines in accordance with Articles 4 and 5, including details of the methods which will be used in destruction, the location of all destruction sites and the applicable safety and environmental standards to be observed;

g) The types and quantities of all anti-personnel mines destroyed after the entry into force of this Convention for that State Party, to include a breakdown of the quantity of each type of anti-personnel mine destroyed, in accordance with Articles 4 and 5, respectively, along with, if possible, the lot numbers of each type of anti-personnel mine in the case of destruction in accordance with Article 4;

h) The technical characteristics of each type of anti-personnel mine produced, to the extent known, and those currently owned or possessed by a State Party, giving, where reasonably possible, such categories of information as may facilitate identification and clearance of anti-personnel mines; at a minimum, this information shall include the dimensions, fusing, explosive content, metallic content, colour photographs and other information which may facilitate mine clearance; and

i) The measures taken to provide an immediate and effective warning to the population in relation to all areas identified under paragraph 2 of Article 5.

2. The information provided in accordance with this Article shall be updated by the States Parties annually, covering the last calendar year, and reported to the Secretary-General of the United Nations not later than 30 April of each year.

3. The Secretary-General of the United Nations shall transmit all such reports received to the States Parties.

Article 8

Facilitation and clarification of compliance

1. The States Parties agree to consult and cooperate with each other regarding the implementation of the provisions of this Convention, and to work together in a spirit of cooperation to facilitate compliance by States Parties with their obligations under this Convention.

2. If one or more States Parties wish to clarify and seek to resolve questions relating to compliance with the provisions of this Convention by another State Party, it may submit, through the Secretary-General of the United Nations, a Request for Clarification of that matter to that State Party. Such a request shall be accompanied by all appropriate information. Each State Party shall refrain from unfounded Requests for Clarification, care being taken to avoid abuse. A State Party that receives a Request for Clarification shall provide, through the Secretary-General of the United Nations, within 28 days to the requesting State Party all information which would assist in clarifying this matter.
3. If the requesting State Party does not receive a response through the Secretary-General of the United Nations within that time period, or deems the response to the Request for Clarification to be unsatisfactory, it may submit the matter through the Secretary-General of the United Nations to the next Meeting of the States Parties. The Secretary-General of the United Nations shall transmit the submission, accompanied by all appropriate information pertaining to the Request for Clarification, to all States Parties. All such information shall be presented to the requested State Party which shall have the right to respond.
4. Pending the convening of any meeting of the States Parties, any of the States Parties concerned may request the Secretary-General of the United Nations to exercise his or her good offices to facilitate the clarification requested.
5. The requesting State Party may propose through the Secretary-General of the United Nations the convening of a Special Meeting of the States Parties to consider the matter. The Secretary-General of the United Nations shall thereupon communicate this proposal and all information submitted by the States Parties concerned, to all States Parties with a request that they indicate whether they favour a Special Meeting of the States Parties, for the purpose of considering the matter. In the event that within 14 days from the date of such Communication, at least one-third of the States Parties favours such a Special Meeting, the Secretary-General of the United Nations shall convene this Special Meeting of the States Parties within a further 14 days. A quorum for this Meeting shall consist of a majority of States Parties.
6. The Meeting of the States Parties or the Special Meeting of the States Parties, as the case may be, shall first determine whether to consider the matter further, taking into account all information submitted by the States Parties concerned. The Meeting of the States Parties or

the Special Meeting of the States Parties shall make every effort to reach a decision by consensus. If despite all efforts to that end no agreement has been reached, it shall take this decision by a majority of States Parties present and voting.

7. All States Parties shall cooperate fully with the Meeting of the States Parties or the Special Meeting of the States Parties in the fulfilment of its review of the matter, including any fact-finding missions that are authorized in accordance with paragraph 8.

8. If further clarification is required, the Meeting of the States Parties or the Special Meeting of the States Parties shall authorize a fact-finding mission and decide on its mandate by a majority of States Parties present and voting. At any time the requested State Party may invite a fact-finding mission to its territory. Such a mission shall take place without a decision by a Meeting of the States Parties or a Special Meeting of the States Parties to authorize such a mission. The mission, consisting of up to 9 experts, designated and approved in accordance with paragraphs 9 and 10, may collect additional information on the spot or in other places directly related to the alleged compliance issue under the jurisdiction or control of the requested State Party.

9. The Secretary-General of the United Nations shall prepare and update a list of the names, nationalities and other relevant data of qualified experts provided by States Parties and communicate it to all States Parties. Any expert included on this list shall be regarded as designated for all fact-finding missions unless a State Party declares its non-acceptance in writing. In the event of non-acceptance, the expert shall not participate in fact-finding missions on the territory or any other place under the jurisdiction or control of the objecting State Party, if the non-acceptance was declared prior to the appointment of the expert to such missions.

10. Upon receiving a request from the Meeting of the States Parties or a Special Meeting of the States Parties, the Secretary-General of the United Nations shall, after consultations with the requested State Party, appoint the members of the mission, including its leader. Nationals of States Parties requesting the fact-finding mission or directly affected by it shall not be appointed to the mission. The members of the fact-finding mission shall enjoy privileges and immunities under Article VI of the Convention on the Privileges and Immunities of the United Nations, adopted on 13 February 1946.

11. Upon at least 72 hours notice, the members of the fact-finding mission shall arrive in the territory of the requested State Party at the earliest opportunity. The requested State Party shall take the necessary administrative measures to receive, transport and accommodate the mission, and shall be responsible for ensuring the security of the mission to the maximum extent possible while they are on territory under its control.

12. Without prejudice to the sovereignty of the requested State Party, the fact-finding mission may bring into the territory of the requested State Party the necessary equipment which shall be used exclusively for gathering information on the alleged compliance issue. Prior to its arrival, the mission will advise the requested State Party of the equipment that it intends to utilize in the course of its fact-finding mission.

13. The requested State Party shall make all efforts to ensure that the fact-finding mission is given the opportunity to speak with all relevant persons who may be able to provide information related to the alleged compliance issue.

14. The requested State Party shall grant access for the fact-finding mission to all areas and installations under its control where facts relevant to the compliance issue could be expected to be collected. This shall be subject to any arrangements that the requested State Party considers necessary for:

a) The protection of sensitive equipment, information and areas;

b) The protection of any constitutional obligations the requested State Party may have with regard to proprietary rights, searches and seizures, or other constitutional rights;

c) The physical protection and safety of the members of the fact-finding mission. In the event that the requested State Party makes such arrangements, it shall make every reasonable effort to demonstrate through alternative means its compliance with this Convention.

15. The fact-finding mission may remain in the territory of the State Party concerned for no more than 14 days, and at any particular site no more than 7 days, unless otherwise agreed.

16. All information provided in confidence and not related to the subject matter of the fact-finding mission shall be treated on a confidential basis.

17. The fact-finding mission shall report, through the Secretary-General of the United Nations, to the Meeting of the States Parties or the Special Meeting of the States Parties the results of its findings.

18. The Meeting of the States Parties or the Special Meeting of the States Parties shall consider all relevant information, including the report submitted by the fact-finding mission, and may request the requested State Party to take measures to address the compliance issue within a specified period of time. The requested State Party shall report on all measures taken in response to this request.

19. The Meeting of the States Parties or the Special Meeting of the States Parties may suggest to the States Parties concerned ways and means to further clarify or resolve the matter under consideration, including the initiation of appropriate procedures in conformity with international law. In circumstances where the issue at hand is determined to be due to circumstances beyond the control of the requested State Party, the Meeting of the States Parties or the Special Meeting of the States Parties may recommend appropriate measures, including the use of cooperative measures referred to in Article 6.

20. The Meeting of the States Parties or the Special Meeting of the States Parties shall make every effort to reach its decisions referred to in paragraphs 18 and 19 by consensus, otherwise by a two-thirds majority of States Parties present and voting.

Article 9

National implementation measures

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.

Article 10

Settlement of disputes

1. The States Parties shall consult and cooperate with each other to settle any dispute That may arise with regard to the application or the interpretation of this Convention. Each State Party may bring any such dispute before the Meeting of the States Parties.

2. The Meeting of the States Parties may contribute to the settlement of the dispute by whatever means it deems appropriate, including offering its good offices, calling upon the States parties to a dispute to start the settlement procedure of their choice and recommending a time-limit for any agreed procedure.

3. This Article is without prejudice to the provisions of this Convention on facilitation and clarification of compliance.

Article 11

Meetings of the States Parties

1. The States Parties shall meet regularly in order to consider any matter with regard to the application or implementation of this Convention, including:

- a) The operation and status of this Convention;
- b) Matters arising from the reports submitted under the provisions of this Convention;
- c) International cooperation and assistance in accordance with Article 6;
- d) The development of technologies to clear anti-personnel mines;
- e) Submissions of States Parties under Article 8; and
- f) Decisions relating to submissions of States Parties as provided for in Article 5.

2. The First Meeting of the States Parties shall be convened by the Secretary-General of the United Nations within one year after the entry into force of this Convention. The subsequent meetings shall be convened by the Secretary-General of the United Nations annually until the first Review Conference.

3. Under the conditions set out in Article 8, the Secretary-General of the United Nations shall convene a Special Meeting of the States Parties.

4. States not parties to this Convention, as well as the United Nations, other relevant international organizations or institutions, regional organizations, the International Committee of the Red Cross and relevant non-governmental organizations may be invited to attend these meetings as observers in accordance with the agreed Rules of Procedure.

Article 12

Review Conferences

1. A Review Conference shall be convened by the Secretary-General of the United Nations five years after the entry into force of this Convention. Further Review Conferences shall be convened by the Secretary-General of the United Nations if so requested by one or more States Parties, provided that the interval between Review Conferences shall in no case be less than five years. All States Parties to this Convention shall be invited to each Review Conference.

2. The purpose of the Review Conference shall be:

- a) To review the operation and status of this Convention;
- b) To consider the need for and the interval between further Meetings of the States Parties referred to in paragraph 2 of Article 11;
- c) To take decisions on submissions of States Parties as provided for in Article 5; and
- d) To adopt, if necessary, in its final report conclusions related to the implementation of this Convention.

3. States not parties to this Convention, as well as the United Nations, other relevant international organizations or institutions, regional organizations, the International Committee of the Red Cross and relevant non-governmental organizations may be invited to attend each Review Conference as observers in accordance with the agreed Rules of Procedure.

Article 13

Amendments

1. At any time after the entry into force of this Convention any State Party may propose amendments to this Convention. Any proposal for an amendment shall be communicated to the Depositary, who shall circulate it to all States Parties and shall seek their views on whether an Amendment Conference should be convened to consider the proposal. If a majority of the States Parties notify the Depositary no later than 30 days after its circulation

that they support further consideration of the proposal, the Depositary shall convene an Amendment Conference to which all States Parties shall be invited.

2. States not parties to this Convention, as well as the United Nations, other relevant international organizations or institutions, regional organizations, the International Committee of the Red Cross and relevant non-governmental Organizations may be invited to attend each Amendment Conference as observers in accordance with the agreed Rules of Procedure.

3. The Amendment Conference shall be held immediately following a Meeting of the States Parties or a Review Conference unless a majority of the States Parties request that it be held earlier.

4. Any amendment to this Convention shall be adopted by a majority of two-thirds of the States Parties present and voting at the Amendment Conference. The Depositary shall communicate any amendment so adopted to the States Parties.

5. An amendment to this Convention shall enter into force for all States Parties to this Convention which have accepted it, upon the deposit with the Depositary of instruments of acceptance by a majority of States Parties. Thereafter it shall enter into force for any remaining State Party on the date of deposit of its instrument of acceptance.

Article 14

Costs

1. The costs of the Meetings of the States Parties, the Special Meetings of the States Parties, the Review Conferences and the Amendment Conferences shall be borne by the States Parties and States not parties to this Convention participating therein, in accordance with the United Nations scale of assessment adjusted appropriately.

2. The costs incurred by the Secretary-General of the United Nations under Articles 7 and 8 and the costs of any fact-finding mission shall be borne by the States Parties in accordance with the United Nations scale of assessment adjusted appropriately.

Article 15

Signature

This Convention, done at Oslo, Norway, on 18 September 1997, shall be open for signature at Ottawa, Canada, by all States from 3 December 1997 until 4 December 1997, and at the United Nations Headquarters in New York from 5 December 1997 until its entry into force.

Article 16

Ratification, acceptance, approval or accession

1. This Convention is subject to ratification, acceptance or approval of the Signatories.
2. It shall be open for accession by any State which has not signed the Convention.
3. The instruments of ratification, acceptance, approval or accession shall be deposited with the Depositary.

Article 17

Entry into force

1. This Convention shall enter into force on the first day of the sixth month after the month in which the 40th instrument of ratification, acceptance, approval or accession has been deposited.
2. For any State which deposits its instrument of ratification, acceptance, approval or accession after the date of the deposit of the 40th instrument of ratification, acceptance, approval or accession, this Convention shall enter into force on the first day of the sixth month after the date on which that State has deposited its instrument of ratification, acceptance, approval or accession.

Article 18

Provisional application

Any State may at the time of its ratification, acceptance, approval or accession, declare that it will apply provisionally paragraph 1 of Article 1 of this Convention pending its entry into force.

Article 19

Reservations

The Articles of this Convention shall not be subject to reservations.

Article 20

Duration and withdrawal

1. This Convention shall be of unlimited duration.
2. Each State Party shall, in exercising its national sovereignty, have the right to withdraw from this Convention. It shall give notice of such withdrawal to all other States Parties, to the Depositary and to the United Nations Security Council. Such instrument of withdrawal shall include a full explanation of the reasons motivating this withdrawal.
3. Such withdrawal shall only take effect six months after the receipt of the instrument of withdrawal by the Depositary. If, however, on the expiry of that six-month period, the withdrawing State Party is engaged in an armed conflict, the withdrawal shall not take effect before the end of the armed conflict.
4. The withdrawal of a State Party from this Convention shall not in any way affect the duty of States to continue fulfilling the obligations assumed under any relevant rules of international law.

Article 21

Depositary

The Secretary-General of the United Nations is hereby designated as the Depositary of this Convention.

Article 22

Authentic texts

The original of this Convention, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations.