

## India and the Ottawa Treaty

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India

### Abstract-

*The article will be looking at India's participation in International arms control and disarmament treaties. What are the reasons for India's participation in some of such treaties and not others? How has India's participation and non-participation affected India's national security vis-a-vis human security of people directly harmed and negatively affected by such weapons. The focus will be specifically on the Ottawa Treaty on the ban on landmines signed in 1997.*

*First, the paper will deal with a short history of the Ottawa Treaty and its adoption. Here an attempt will be made to show how this treaty was a result of an international campaign by non-state actors in a domain of international security. Due to this "International Campaign to Ban Land Mines", a norm of non-use of land mines emerged, which in 1997 engulfed a total of 122 countries to sign this treaty (UNOG, The United Nations Office at Geneva website).*

*Second, it would be dealing with India's non-signature and the reasons it provides for such non-participation. It would further go into analysing the reasons given by India for this non-participation. Why does India participate in some international arms control and disarmament treaties and not others? If the ban on land mines is an international norm, how is it that India has been able to shield itself against such a norm, being a democracy with a vibrant civil society? Does this have to with India's foreign policy decision making? Based on secondary sources, the paper will go on to analyse the impact of such a foreign policy choice by India on the people. The conclusion would be going into the dynamics of national security and human security. Is it a zero sum game or can it also be a positive sum game between the state and its people and between national security and human security?*

**Keywords-** Ottawa Treaty; India; National Security; Human Security; Disarmament

### INTRODUCTION

In the discourse and domain of International Relations and International Politics, there is a distinction that is usually made in between what is called "high politics" and "low politics". In the former, that is, in "high politics", the issues usually deal with state security and affairs of utmost importance, like that of state survival. Hence the atmosphere is that of total de-politicization as one cannot let debate and discussion quagmire such issues. In the latter, that is, "low politics", the issues usually are of socio-economic, political and cultural in nature. This is located in the level of the 'political', with issues and areas debated left, right and centre. Decisions here are affected by a whole lot of considerations and diverse voices; hence take a longer time to deliver.

The domain of security, especially traditional form of security that is national security or state security is under the domain of "high politics". Hence issues of national security are not discussed and deliberated upon in the political realm. However during the 1970s and 1980s, there was a considerable "broadening and deepening" of the discourse on the meaning and agenda of security itself ("broadening and deepening" used by Booth, 2007). First the "broadening" of the security agenda came with the publication of *Security: A New Framework for Analysis* (1998) by Buzan, Waever and Wilde, which led to the establishment of the Copenhagen School. This School broadened the security agenda to not only include the military dimension of the state but also issues in the political, economic, social

and environmental domains. This broadening of the security agenda under these broad sectors is known as “sectorization”. There was also a move to “deepen” the security agenda. Here, one can bring in the analysis of the meaning of security given by the critical/reflectivist theories of the International Politics discourse like feminism, post-structuralism and others. Notably in this area would be scholars like Anthony Burke (Burke, 2007). Hence came the “deepening” of the security agenda and the establishment of the non-traditional approaches to security.

What happened with this evolution and establishment of various approaches to security and the various meanings of security is that, there was a solidification of notions such as “human security”, “environmental security” and others. There have been criticisms against this ‘broadening and deepening’ of security on various grounds, by scholars like Stephen Walt (Walt, 1991). In fact, there also has been a move to also establish the notion of “de-securitization” (Waeber, 1995) in order to bring such socio-political-economic and cultural issues once again within the domain of politics.

With regard to the Ottawa Treaty and the discourse on securitization, the move till now was to “securitize the political” by enlarging the agenda of security, but with movements like the International Campaign to Ban Landmines, a step was taken in the direction to “politicize security” itself in its traditional form (Garcia, 2013). An issue of “high politics”, a traditional form of security that is national military state security was invaded by the advocacy, debate, discussion, and influence of a non-state actor, a coalition of NGOs and the international civil society.

## **The International Campaign to Ban Landmines (ICBL)**

The ICBL Website states that,

“in the Nineties, non-governmental organizations (NGOs) who witnessed the ravaging effects of landmines on a daily basis grew increasingly impatient with the only treaty controlling the use of antipersonnel landmines - the 1980 Convention on Certain Conventional Weapons (CCW). In 1993, the French campaign to ban landmines had urged then President Mitterrand to call for a review conference to improve the CCW. Mitterrand agreed and the date was set for 1995. However, the 1995/6 Review Conference failed to make any significant changes to the CCW. This confirmed campaigners' belief that a total ban was the only solution to the global landmine crisis. At the same time, governments were facing growing public pressure to address the landmine problem effectively and speedily. At the end of the CCW's Review Conference process, 40 governments said they supported a total ban and began working with NGOs towards this aim.”

“The passage of the Mine Ban treaty has been hailed as one of the most momentous events in the annals of humanitarian assistance. Mobilising a unique partnership of civil society actors and governments, the ICBL was instrumental in helping to establish the concept of human security-recasting security in humanitarian rather than purely military means-and in providing a legal and normative framework for the eradication of anti-personnel landmines.” (Kjellman, 2003)

This campaign led to a norm emergence of landmines non-use. When the treaty was opened for signature in 1997, a total of 122

countries signed it. Now a total of 161 states are party to it, with 36 states being outside the treaty (ICBL Website). India is one of the 36 countries, who have refused to participate in the treaty. Other countries who have refused to participate are the United States, China, Russia, Israel, Iran, Egypt, UAE, Myanmar, Cuba and others.

### **A norm emergence of a ban on land mines**

Stephen Krasner (Krasner, 1983) has defined norms as “standards of appropriate behaviour defined in terms of rights and obligations”. Gary Goertz and Paul F. Diehl (Goertz and Diehl, 1992) have made a distinction between co-operative, hegemonic and decentralised norms.

□ Co-operative norms have “the following characteristics: first, it corresponds to the self-interest of the actors; second, no sanctions are necessary as the norms are self-enforcing, and third, the deontological component is minimal.”

□ Hegemonic norms “are characterised by, first, at least partial conflict between self interest and the norm; second, sanctions are in the hands of a central actor- government or hegemon – and play an important role, and third, there needs to be at least a moderate level of support for the norm on the part of the actors affected.”

□ Decentralised norm- “the characteristics are, first, conflict between norms and self interest; Second, sanctioning power is diffused and based on the willingness of individual actors to ‘pay’ for sanctions (i.e., no central sanctioning body), and third, the deontological aspect is important.”

The norm of a ban on land mines (production, stockpiling and use), can be placed under the third category of norms given above, that is, decentralised norms. This is because, a ban on landmines would be in conflict with national self interest, especially military self interest as landmines are the cheapest way of defending intrusion against one’s borders *ceteris paribus*. Such weapons are the best way to protect one’s territorial borders especially against neighbours or external threats that use guerrilla and low level conflict intrusions occasionally instead of an all out war. The presence of land mines across borders permanently secures the borders against intrusion.

Despite such high value military uses of land mines, a total of 161 countries have signed the Ottawa treaty which forbids the production, stockpiling, usage, and transfer of landmines. The ban on landmines cannot be called a “co-operative norm” because here the ban on such weapons is directly going against the military self interest of countries. It cannot be called a “hegemonic norm” because there is no one central powerful authority which can be a group of powerful states that is levying sanctions against those countries who are failing to comply. Also because, the non-signatories of the Ottawa treaty include the United States, Russia, China and other dominant actors in world politics. With regard to the implementation of the Ottawa Treaty, there is no mechanism of sanctions. The main method of the monitoring of the treaty is the *Landmines Monitor Organization* that produces an annual report of all states that have signed and not signed the treaty. This allows for a normative scrutiny especially of states that have not signed and of states that are lacking in the actual de-mining operations despite having signed and ratified the treaty.

The most important reason why the ban on landmines can be considered to be under the category of decentralised norms is because of its strong deontological element. The campaign against landmines focussed on the strong moral aspect related to its uses. It totally goes against the International Humanitarian Principles as it fails to make a distinction between soldiers and civilians, maiming or even killing anyone who steps on it- be it humans or animals. The most serious effect was felt on children who because of their fateful encounter either got killed or were disfigured and maimed for life. What was focussed upon and brought out in the open, to the International community was the fact that landmines stay hidden in the land long after the conflict is over. They can shift around because of the rain and get hidden under constant vegetation growth. Moreover, no country can be sure that it has mapped perfectly all the places where it has planted such mines due to the natural factors mentioned above like rain and vegetation growth. Since, the land mines are active long after the peace agreement are signed and people have started moving back to their original homes, they become a disaster manifold for the people and children who are just recuperating from the effects of the main war. Hence the deontological aspect of such an incendiary weapon was brought to the forefront of the international community which became one of the main reasons for the “emergence” of this norm. One can say that this norm is presently in the “cascade” level of a norm cycle (Finnemore and Sikkink, 1998) because a majority of the countries have signed it, and there is a constant pressure by signatory states, the ICBL group and other non-governmental groups for non-participatory states to sign the treaty.

### **The reasons why India has not signed the Ottawa Treaty**

India is not a signatory to the Ottawa Treaty (1997 signed-1999-ratified) that prohibits the use, stockpiling, production and transfer of anti-personal land mines. The reason India gives for not signing (from the *Landmines Monitor* website) can be said to be three layered-

- Firstly, that it is used for the purposes of national security only on the border areas, and not inside its territories. Hence they are used only for defensive purposes against only intruders that come to attack India’s territory.
- Secondly that India “supports the vision of a world free of the threat of anti-personnel mines” but on the condition of the “availability of militarily effective alternative technologies that can perform, cost-effectively, the legitimate defensive role of anti-personnel landmines.” That is, India will strive and achieve a world free of land mines as soon as there are alternative weapons available that would defend the borders of India in the same way as do landmines.
- Lastly, its rhetoric that India uses landmines in a judicious and responsible way, and that this is further strengthened by the fact that it is party to the CCW and its Amended protocol II on landmines and Protocol V on explosive remnants of war. Hence the problem is not with landmines themselves but with the way the state handles or uses them. (*Landmines Monitor* website)

If the norm of a ban on landmines is a decentralised norm due to the high element of the deontological aspect of it and the continued work of ‘naming and shaming’ of the *Landmines Monitor*, how is it that India has been able to shield itself from participation in such a norm? One of India’s reasons for non-

participation is that the problem is not with the landmines themselves but with its indiscriminate uses and that India would use it judiciously and in a responsible way. This is in total defiance against the strong deontological aspect built into the landmines themselves as dangerous inhuman weapons. The campaign against landmines had focussed on portraying these weapons as an evil in themselves and those of which there can be no responsible or judicious use of. However India consistently makes this point, of it being a country that makes a “judicious” and “responsible” use of such weapons.

Related to this third reason is India’s first reason for continuing the production, use, stockpiling and transfer of such weapons, which is that it uses such weapons only for defensive purposes on the borders and not inside the territory. This reason overlooks the fact that countries cannot have an up-to-date record and mapping of their mining activity. Even if it has, in order to prevent civilians from entering the mined areas, there has to be signals put up which even an external infiltrator can be aware of and hence escape the harm it intends. The fact that mines might move with rain and other natural factors like vegetation growth is ignored by the reasons given by India.

India’s second for not signing the Ottawa Treaty is most problematic. India purports that it would fully and entirely support a world free of anti-personal landmines only when there are “alternative technologies” available that would work in the same way as do landmines in defending India’s borders. Such a technological and time limit makes little sense of the norm of the ban on landmines. India is bringing forward and fully stressing on the military usages of landmines. This could be explained in a purely

real politik way by stressing on the fact that militarily this weapon would be useful and that no thinking country with a troubled border would want to give up on such weapons. What is problematic in such a reason is that the norm of a ban which includes inside it the humanitarian aspect of it seems to have had no impact or effect on India’s decision.

### **Impact of India’s decision of non-participation in the Ottawa Treaty**

The Landmines Monitor website states that, “Following the attack on the Indian Parliament on 13 December 2001 there was a rapid escalation of tension between India and Pakistan with full scale preparations for war including the deployment of anti-personnel and anti-vehicle mines along the border. As many as two million mines were laid between December 2001 and June 2002 by the Government, along the 1,800 mile North Western India-Pakistan border, specifically in Jammu & Kashmir, Punjab, and Rajasthan. This was reported to be the biggest mine laying operation in the world in years. In 2003 further information was collected on at least 270 new casualties (101 people killed and 169 injured) from landmines, improvised explosive devices and unexploded ordnance. There is no comprehensive data collection mechanism India and it is believed that many civilian casualties are not reported due to the remoteness of some of the mine affected areas. India is one of the world’s fifteen remaining producers of anti-personnel mines with all production in the hands of government agencies. The most troubling type of anti-personnel mine produced in India is the low metal content M14 blast mine which is very difficult to detect by conventional mine clearance equipment. This makes clearance operations extremely slow and dangerous. It has been estimated that India holds between

four to five million APMs in its national stockpile - the sixth largest stockpile in the world. The Indian Government has neither confirmed nor denied this estimate. Although India maintains that it has never exported or imported APMs, Indian made APMs have been declared by Bangladesh, Mauritius and Tanzania in Ottawa States Parties transparency reports.” (*Landmines Monitor Website*)

### **India’s mixed responses to international treaties**

It is ironical that the world’s largest democracy’s foreign policy decision making, especially the signing of international treaties takes place in an opaque way. Contemporarily there is no mechanism by which India’s foreign policy decision making can be discussed and ratified in a democratic way, by the Parliament. Except for very important agreements like the Indo-US nuclear deal, or the FTA agreement with EU- which have an enormous impact on the business elite in India, and are brought to the forefront to the public by the concerned groups and the media, there is no way by which the public is regularly informed about which international treaties India is participating in or not-participating and for what reasons. India’s signing or non-signing of international treaties do not have to be ratified by the Parliament like in the American Constitution.

India’s responses to international arms control and disarmament treaties have been varied. With regard to nuclear weapons and its testing, India was one of the pioneering countries to sign the Partial Test Ban Treaty in 1963 which bans testing in the atmosphere, allowing testing only under water and underground. However India refused to sign the Non-Proliferation Treaty which bans testing of nuclear weapons altogether when it finally came up in 1968.

India has signed the Chemical Weapons Convention (1993), the Biological Weapons Convention (1972) and the Convention on Certain Conventional Weapons (1981) but on the other hand, it has refused to sign the Ottawa Treaty (1997), the Cluster Munitions Ban (2008), Comprehensive Nuclear Test Ban Treaty (CTBT 1996) and the Nuclear Non-Proliferation Treaty (NPT-1968). Why is there a varied response to such international treaties dealing with the same arms control and disarmament issues? What is more troubling with regard to India’s non-participation in the Ottawa Process is the fact that India is a party to the Conventional Weapons Convention. The CWC entered into force in 1983 and it has various protocols which deals with and seeks to restrict the production and use of certain conventional weapons that are capable of doing unrestricted and unacceptable damage to those affected by it. Protocol I deals with Non-Detectable Fragments, Protocol II deals with restriction on the Use of Mines, Booby-Traps and Other Devices, and Protocol III deals with the Prohibitions or Restrictions on the Use of Incendiary Weapons (Rydberg and Rieser, 1996). The Ottawa Treaty was based on Protocol II of the CWC. After signing the CWC in 1983, India in 1997 has refused to sign the Ottawa Treaty

How can one explain such behaviour by India with regard to its decisions? What are the varied influences and role of different variables that go into a particular decision?

□ How much effect does a particular political party being in power or forming the government have on such decisions? Does the fact of a right wing political party being in power, the BJP, have to do anything with India not signing the Ottawa Treaty? If that is the case, why has the Congress not signed the Treaty after forming UPA I and II? Under such

domestic variables would also come the extent of inclusion of the military point of view while taking decisions on such arms control and disarmament international treaties.

□ How much effect does the domestic and international political context have on India's participation and non-participation in such treaties? The context in this case would include India's identity in the international sphere-how India views itself with regard to other nations and how it is viewed by the international community. For example, during the Nehruvian era, India was one of the leaders of the Third World, an ardent supporter of decolonization, nuclear disarmament, and fight against racism. Such an identity considerably shaped India's participation in the various international treaties. Hence at that time, during the first few decades of Indian independence, India was an active advocate of a comprehensive nuclear test ban treaty. Contemporarily India sees itself as an emerging or "re-emerging" nation, a rising global power which rightly deserves a place among the permanent members of the Security Council. This rise of India impinges on its international policies especially with regard to the domain of military and economics. The fact that India is contemporarily the largest importer of arms in the world goes on to show that it wants to raise its standards with regard to its military preparedness. However going against international norms like the norm of a ban against landmines only harms India's identity and stature as a responsible, democratic country, especially before the eyes of the international civil society.

One of the reasons for India's non-signature could also be the fact that many major powers also have not signed this treaty. Could this be India's way of clubbing itself with the major powers like USA, Russia, and China? The lack

of great power support to this treaty could be one of the reasons for India's non-participation. The other arms control and disarmament treaty that India has signed, CWC and the BCW had great power support.

□ What also has to be considered is the fact that India has signed those international arms control/disarmament treaties that deal with Weapons of Mass Destruction, which are the CWC and BWC (Here the NPT would be an exception which will be discussed below). Chemical and Biological weapons are under the category of WMD because the level of harm caused by these weapons are likely to threaten national security or state security and India is a signatory to their Conventions. However the treaty on landmines and cluster munitions threaten not state/national security as such but they harm only at the individual level. Hence, keeping all other things equal, one could argue that India gives more importance to state/national security than to the security of its individuals.

One exception to the above argument is that of India's non-signatory to the NPT and CTBT which deal with the gravest form of WMD, that is, the nuclear bomb. The reasons for this are varied. India is unwilling to sign the NPT because of its "discriminatory" nature as it recognizes five nuclear weapons states and seeks to halt only horizontal proliferation without having a mechanism to prevent vertical proliferation by the five nuclear weapons states. In doing this, India is still protecting its national/state security. With regard to the CWC and BWC, it was a matter of total global disarmament- in the sense that there would be no such groups of countries which were allowed to "legitimately" hold on to their chemical and biological weapons. This was not the case with the nuclear weapons.

□ Does such a mixed response have anything to do with India's diplomatic culture and foreign policy decision making? Can a culture specific argument be made in such a regard?

## Conclusion

The paper has highlighted how the norm against the production, use, stockpiling and transfer of anti-personnel landmines has emerged in a domain of 'high politics' as a "decentralised" norm. However, India has refused to be a part of this treaty. The three reasons given by India have been analysed and an argument has been made to the effect that no matter what the officials might promise as to the judicious use of such weapons- it is beyond their capacity to assure a "legitimate" use with such weapons, that lasts for years and are susceptible to move around being undetected due to natural factors like rain, landslides, and vegetation growth. They are a threat with regard to basic human rights and human security of not only the civilians affected by it but also the soldiers who encounter it during peacetime. India as a non-signatory to such treaties that ban landmines and cluster munitions is showing a clear disregard for the international norm and principles of international humanitarian law. In this case there is a clear parallel that is drawn distinctly between state security and human security. There has to be developed ideas and policies which will make an effort towards bringing the two together.

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