

## HUMAN RIGHTS WATCH BACKGROUNDER

# Recent Landmine Use By India And Pakistan

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As part of the military buildup resulting from the December 13, 2001, attack on the Indian parliament, both India and Pakistan have emplaced large numbers of antipersonnel and antivehicle mines along their common border. This is one of the largest scale mine laying operations anywhere in the world since 1997 when 122 nations signed the Mine Ban Treaty (Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Antipersonnel Mines and On Their Destruction). Neither India nor Pakistan is party to that treaty, though both have stated their support for a comprehensive global ban on antipersonnel mines at some point in the future.

India openly acknowledges that it is laying mines along its border with Pakistan. India apparently began to mine its own territory on December 25, 2001. The *New York Times* reported on January 4, 2002, that India may attempt to mine its entire 1,800-mile (2,897-kilometer) border with Pakistan, at times creating minefields three miles wide (4.8 kilometers). Mines have been emplaced in agricultural areas right after crops were planted and civilians were forced to evacuate the areas. One of the more detailed accounts to appear so far indicating the scale and impact of the mine laying by India appeared in the online edition of *Tribune* (published in Chandigarh) on January 31, 2002. In this report, the deputy commissioner of the Ferozepore district of Punjab stated that 27,127 hectares (105 square miles), including 350 villages, along the 210-kilometer (131 mile) long international border in the district had been acquired by the Indian Army to lay mines or construct fortifications. A report by the BBC on January 17, 2002, cited Indian Army officers as stating that two phases of the mine laying operation are complete and they are awaiting orders to commence a third phase.

Media reports indicate that Pakistan also mined its side of the border, but the government has not confirmed this. In a January 29, 2002, letter to the International Campaign to Ban Landmines (ICBL), the Embassy of Pakistan in Washington, D.C. left little doubt that mine laying is taking place. Noting that it was responding to the ICBL's concerns regarding "the laying of antipersonnel landmines in the present situation of deployment of forces," the Embassy states, "Pakistan has been obliged to take precautionary defense measures." *The News*, an independent newspaper published in Islamabad reported on February 14, 2002, that a deputy superintendent of police in Toba Chacu said that Pakistani troops had planted "a large number" mines in areas of the Cholistan desert, near the Indian border.

While neither India nor Pakistan have agreed to ban antipersonnel mines, both are party to the 1996 Amended Protocol II of the 1980 Convention on Conventional Weapons. This protocol restricts the way the countries can use antipersonnel mines and the types of mines they can use. An important obligation that both parties must observe is a requirement that they provide effective exclusion of civilians from areas containing antipersonnel mines. Reports of civilian casualties (see below) on both sides of the border call into question the effectiveness of the measures taken to protect their own civilians from the effects of mines. For example, a report in *Times of India* on February 9, 2002, notes,

Thousands of acres along the Indo-Pak border have been mined by the Army, with no markers to give warning. In some places, a narrow ribbon with a faintly written 'Danger' sign in Punjabi is the only indicator for the largely illiterate village population not to stray into these heavily mine fields.

The same report goes on to quote Indian Army officers,

Army officials in Delhi counter these fears by insisting that all minefields are laid according to a plan and that records of the mine-laying are diligently maintained. Army spokesman Col Shrutu Kant says: "Each mine is accounted for and taken out by the same set of troops after the assigned task is over."

However, the same report notes that four people were injured by in separate incidents in the Amritsar District during the week of January 16-20, 2002.

### **Civilian and Military Mine Casualties**

There have been numerous reports in the media of Indian civilian casualties from the recently emplaced mines. One of the first reports of civilian casualties appeared on December 27, 2001, in *Hitvada* (an English language paper from Nagpur) that one person had been injured and two camels and thirty goats and sheep killed when they strayed into minefields in the districts of Bikaner and Jaisalmer in Rajasthan. The BBC reported on January 17, 2002, that a woman and her son were killed near the village of Najjwak in the Ankhnoor sector in Kashmir as they took a short-cut across a field that had been recently mined. The same BBC report also states that mines have taken additional civilian lives, but no official figures were available. The *Times of India* reported on January 19, 2002, that two farmers were injured in separate mine incidents near the villages of Mullakot and Khemkaran in the Amritsar region of Punjab. An account published in *Tribune* on January 31, 2002, claimed that seven mine casualties have been reported in the Ferozepore district of Punjab but did not provide a source or details for this information. Another report in *Tribune* on February 3, 2002, noted that a deputy commissioner in the Amritsar District of Punjab distributed compensation checks from the Indian Red Cross Society to six recent mine victims.

Mines killed or injured a large number of Indian Army and border security troops as they emplaced the mines. Indian Army officials confirmed to the BBC on January 17, 2002, that at least eighty soldiers have been killed while emplacing mines. On March 20, 2002, *Jane's Defense Weekly* quoted Indian Defense Ministry sources as saying, "nearly 150 Indian Army soldiers have died in landmine accidents." One of the first reports of military casualties appeared in the *Calcutta Telegraph* on December 29, 2001, stating that fourteen soldiers were killed and four injured on December 28, 2001, in a mine-laying accident near Lambawal village close to Jaisalmer in Rajasthan. Another report, in the January 7, 2002, online edition of *Tribune*, stated that in the village of Mahawa in the Amritsar region of Punjab at least three soldiers were killed and another seven injured when one of their trucks carrying mines in crates mistakenly backed over one of the antivehicle mines they were assembling. Indian military officials are reported to be investigating the causes of these incidents. *Jane's Defense Weekly* reported that Indian military sources cite equipment failure as the cause for the large number of mine casualties.

The Indian military has apparently requested that local officials impose restrictions on the media in certain border areas because of the mine-laying operation. According to a report in *Tribune* on January 6, 2002, Indian Army officials requested that the Punjab Government impose controls on the movement of journalists in border areas after several stories appeared about deaths caused by mine explosions. Similar controls might be imposed in other border areas, including Rajasthan, according to this report. Additionally, the same report notes that local prosecutors may take action using the Indian Official Secrets Act to prevent information about minefields from being disseminated.

Reports of civilian casualties from mines on the Pakistani side of the border and in areas controlled by Pakistan appear with less frequency. On January 2, 2002, the correspondent from *Dawn*, an English language newspaper in Pakistan, reported that one man was killed and another injured when the bicycle they were riding hit a mine near the border

village of Bajwat, near the Sialkot working boundary. The Associated Press on February 13, 2002, and the Islamabad-based *News* reported on February 14, 2002, that seven members of a family were killed when their vehicle hit a mine in Cholistan near Toba Chacu. Both reports cite police sources attributing the emplacement of the mine to the Pakistani Army.

### **India's Landmine Policy**

India is not a party to the 1997 Mine Ban Treaty. The Indian Ministry of External Relations explains in its annual report published in 2000 that it has not done so “because our own legitimate security concerns require us, in view of long land borders, to make use of [antipersonnel mines] in a purely defensive mode.” The Indian ambassador to the Conference on Disarmament in Geneva, Rakesh Sood, expanded this view in December 2000 by stating 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.”

India is one of the fourteen countries in the world that still produces antipersonnel mines. India has produced two types of antipersonnel mines, the M16A1 and the low metal content M14, both copies of U.S. designs. It was recently acknowledged that India has designed a new remotely delivered antipersonnel mine system for trial evaluation and prototype production. This is notable because India has not previously had a remotely delivered mine system and even suggested banning such mines in the past. India also produces several types of antivehicle mines.

India stockpiles between four and five million antipersonnel mines, the sixth largest stockpile globally. India states that it has never exported landmines and has had an export moratorium in place since May 1996. India also states that it has never imported mines.

India used mines in its three wars with Pakistan in 1947, 1965, and 1971, and in its war with China in 1962. India asserts that the Indian Armed Forces have never used landmines in internal armed conflicts in its northern and northeastern states. Officials proclaim that “India is not a mine afflicted country,” and that agricultural lands and other useful areas were immediately demined on cessation of previous hostilities. However, some areas mined during previous conflicts still contain mines. These are generally in border areas and mine incidents are still reported each year. Minefields are generally mapped and marked in local languages. No surveys or assessments have been carried out by any agency.

The most severe humanitarian problem causing civilian casualties in the region has been in conflict areas where non-state actors used improvised explosive devices (IED). In Jammu and Kashmir alone, according to statistics compiled 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. According to Indian government sources, 129 civilians were killed and 715 were injured as a result of mine and IED incidents in Jammu and Kashmir in 2000.

### **Pakistan's Landmine Policy**

Pakistan has also not joined the 1997 Mine Ban Treaty and the director general for disarmament in the Foreign Affairs Ministry said in January 2001, “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 favor 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.”

Pakistan is also one of the fourteen remaining antipersonnel mine-producing states. The state-owned Pakistan Ordnance Factories have produced six types of antipersonnel mines – two low metal content blast mines (P2 Mk2 and P4 Mk2), two bounding fragmentation mines (P3 Mk2 and P7 Mk2), and two directional fragmentation/Claymore-type mines (P5 Mk1 and P5 Mk2). Pakistan is also reported to be developing a remotely delivered antipersonnel mine system. Pakistan also produces several types of antivehicle mines.

Pakistan's arsenal of antipersonnel mines is estimated to amount to six million mines, the fifth largest in the world. Pakistan states that it has not exported antipersonnel mines since 1991 and that in February 1999 it "totally banned" the export of antipersonnel mines through Statutory Regulatory Order-123(1)1999 and "export control procedures." However, questions have been raised about Pakistani-manufactured antipersonnel mines being supplied to armed groups fighting in the Kargil region of India-administered Kashmir in 1999 (see below for details).

Pakistan used landmines during its three wars with India in 1947, 1965, and 1971. Pakistan has also laid antipersonnel mines in front of its defended localities in Pakistan-administered Kashmir. India accused Pakistani army troops of using mines during the intense fighting in the Kargil region of Kashmir in mid-1999.

In previous years, the government of Pakistan publicly maintained that "Pakistan is not a mine-afflicted country" and that "there are no problems of un-cleared mines and casualties in areas under the jurisdiction" of the government. However, in an April 4, 2002 letter to the Pakistan Campaign to Ban Landmines, the Pakistan's Joint Staff Headquarters admitted that:

There are no permanently laid mined (Anti tank or anti-personnel) along the international border between India and Pakistan. However, situation is somewhat different along the Line of Control (LOC) in Kashmir, where for regular deployment of troops, both India and Pakistan maintain permanently laid mine fields along certain portions of the LOC.

The landmine incidents in Pakistan's frontier regions are an acknowledged legacy of the indiscriminate use of landmines by occupying forces in neighboring Afghanistan during the decade long Soviet invasion of that country.

Indeed, the Federally Administrated Tribal Areas of Pakistan, especially the Bajaur and Kurram tribal areas, have been contaminated with mines since the December 1979 invasion of Afghanistan by the USSR. During cross-border attacks, Soviet and Afghan forces scattered large quantities of mines from aircraft and helicopters over wide areas of ground. In addition, the Afghan resistance Mujahideen used landmines to protect their bases in the tribal areas. There were fifty-five major bases on the Pakistan side of the border, most situated between Miranshah in North Waziristan, through Parachinar in Kurram, to Mohmand and Bajaur. Rae McGrath, founder of the United Kingdom charity Mine Advisory Group, assessed these areas in 2000 for the Human Survival and Development (HSD), a nongovernmental organization in Pakistan. Another survey by HSD identified 599 landmine victims since 1980 in Bajaur Agency, including thirty-one people killed or injured in 2000. HSD believes that the actual number of landmine victims is higher than this figure.

### **Compliance with International Humanitarian Law**

Human Rights Watch, as a co-founder of the International Campaign to Ban Landmines, believes that new mine laying by India and Pakistan is a violation of customary international humanitarian law, because antipersonnel mines are inherently indiscriminate and because their limited military utility is far outweighed by their negative humanitarian consequences. The dominant view of the international community that antipersonnel mines should be considered illegal is reflected in the fact that 123 nations have ratified, and another 20 have signed, the 1997 Mine Ban Treaty that comprehensively prohibits any use,

production, trade or stockpiling of the weapon. The ICBL, in letters to the leaders of both countries, condemned India's and Pakistan's actions and urged both countries to refrain from further mine use.

Both India and Pakistan are party to the 1996 Amended Protocol II of the Convention on Conventional Weapons. This treaty regulates, as opposed to prohibiting, the use of antipersonnel mines and establishes certain technical requirements for them. There have been a number of incidents in the conflict between India and Pakistan that raise serious questions about the manner in which the two countries are implementing Amended Protocol II.

### ***Excluding Civilians from Mined Areas***

Article 5 of Amended Protocol II requires that a state emplacing non-remotely delivered antipersonnel mines take steps to ensure the effective exclusion of civilians from these mined areas. Marking, fencing, and monitoring of mined areas are common ways that effective exclusion is accomplished.

It appears that, admittedly based on a small number of media accounts, India is at least taking some steps to fulfill its obligation. For example, a report in the January 31, 2002, *Tribune* notes that in the Ferozepore district in Punjab, the civilian administration and Indian Army are conducting mine awareness education for the civilian population and fencing and warning signs in the Hindi and Gurmukhi languages are present.

However, civilians are continuing to fall victim to mines on both sides of the border as they unwittingly enter mined areas. Such incidents naturally raise questions about the effectiveness of the measures taken to ensure the exclusion of civilians from areas containing antipersonnel mines and thus comply with the obligations of Amended Protocol II.

### ***Use and Transfer of Mines in Kargil***

The *Landmine Monitor Report 2000*, published by the ICBL, reported that Pakistani troops and armed rebel groups they support used antipersonnel mines in the Kargil region of India-administered Kashmir in May-July 1999, and that Pakistan transferred antipersonnel mines to the armed groups. In January 2000, Indian border security and army forces showed the Landmine Monitor researcher crates of antipersonnel mines bearing the manufacturer's label of the Pakistan Ordnance Factories that were reportedly captured from the armed groups. In December 2000, the Pakistani representative to the annual meeting of states party to Amended Protocol II dismissed the accusations made by the ICBL as "fallacious assertions."

Although Pakistan ratified Amended Protocol II on March 9, 1999, the treaty had not entered into force for it at the time of the conflict in the Kargil region. However, Pakistan is obligated to refrain from actions inconsistent with article 8 of Amended Protocol II, which prohibits transfers to any recipient other than a state or state agency authorized to receive such transfers during this period. This incident may also be a violation of Pakistan's domestic law and export control procedures.

### ***Use of Low Metal Content Mines***

Amended Protocol II also prohibits the use and transfer of low metal content antipersonnel mines, which are difficult to detect and clear. States must modify low metal content mines by including a metal content equivalent to eight grams of iron. Some states have chosen to glue a metal washer to the mine to satisfy the requirement. Both India and Pakistan spoke against a proposal in December 2001 at the Second Review Conference of the CCW, which among other things would apply the same detectability requirement for antipersonnel mines to antivehicle mines.

India stockpiles at least one type of low metal content antipersonnel mine, a copy of the U.S. M14. India stated that production of this mine ceased on January 1, 1997, and reported as recently as December 2001 that measures have been taken to make its stocks compliant with the detectability requirement. While it is not known if M14s have been used in India's mine laying operations, all low metal content antipersonnel mines used by India must be modified prior to their emplacement and activation to include additional metal content.

Pakistan stockpiles two types of low metal content antipersonnel mine, the P2 Mk2 and P4 Mk2. Pakistan stated that it has produced only detectable antipersonnel mines since January 1, 1997. However, when it ratified the treaty, Pakistan exercised its right to defer compliance with the detectability requirement for nine years. Pakistan must come into full compliance with the technical specifications by December 3, 2007. However, the *Landmine Monitor Report 2000* reported that Pakistani forces or armed groups supported by Pakistan used these two types of low metal content antipersonnel mines during the conflict in Kashmir in 1999.