

HUMAN RIGHTS WATCH WORLD REPORT 2002

ARMS



Victims of landmines in Afghanistan.

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The arrival of the Bush administration in the White House in January ushered in an approach to U.S. foreign policy that could only be described as a reflexive unilateralism. It seemed there was not a single multilateral treaty that the new government was willing to join or retain. Treaty negotiations soon ran up against freshly drawn “red lines,” that is, baseline positions that, it was made clear, were essentially nonnegotiable. As a result, these negotiations were either scuttled or resulted in watered-down documents that reflected a common denominator heavily colored by what the United States presented as its vital national interests.

This was true especially for negotiations involving issues of international arms control. In 2001, these included talks on the 1972 bilateral Anti-Ballistic Missile Systems (ABM) treaty, the 1972 Biological Weapons Convention (BWC), and small arms and light weapons (at a U.N. conference in July). The review of the 1980 Conventional Weapons Convention (CCW) was scheduled for December; negotiations at preparatory committee meetings (“prepcoms”) took place in April and September. In mid-September, States Parties to the 1997 Mine Ban Treaty met to review that treaty, as they had every year since 1997; as a non-signatory, the U.S. was not involved in this review.

After the September 11 attacks on New York and Washington, D.C., the U.S. government no longer could hew to a strict unilateralist line. It suddenly was faced with the need to build a broad international coalition to respond to the attacks. However, in the middle of November it remained unclear whether this would bring a renewed U.S. commitment to multilateral treaties. Moreover, one victim of the new U.S. preoccupation with its self-proclaimed fight against terrorism was the effort to curb the proliferation of small arms and small weapons. While this remained an issue of pressing concern for those who suffered directly from the impact of the spread of small arms, especially those living in zones of armed conflict in Africa and elsewhere, the fear was that supplier countries would turn their attention away from the urgent need to impose stricter export controls.

Consistent with its emphasis on small arms and light weapons, in 2001, Human Rights Watch was engaged primarily in the U.N. conference on small arms, and in the review of the Mine Ban Treaty.

ANTIPERSONNEL LANDMINES

Important strides were made in 2001 in the effort to eradicate antipersonnel landmines, despite the reality that antipersonnel mines continued to be laid and to take far too many victims. It was evident that the 1997 Mine Ban Treaty, and the ban

movement more generally, were making a significant difference. A growing number of governments joined the Mine Ban Treaty and there was a decreased use of antipersonnel mines, a dramatic drop in production, an almost complete halt to trade, and progress in the rapid destruction of stockpiled mines. There were also fewer mine victims in key affected countries and more land was demined.

Between November 2000 and November 12, 2001, the number of States Parties to the 1997 Convention on the Prohibition of the Use, Stockpiling, Production, and Transfer of Anti-Personnel Mines and On Their Destruction (Mine Ban Treaty) grew to 122. Among the new adherents were Romania and Chile, both major producers and exporters in the past, and Eritrea, which was using antipersonnel mines in combat as recently as June 2000. An additional twenty countries had signed but not yet ratified the Mine Ban Treaty. The foreign ministers of Greece, Turkey, and Yugoslavia pledged to ratify or accede to the treaty shortly.

Fifty-two countries had not yet joined the treaty. This included most of the Middle East, most of the former Soviet republics, and many Asian nations. Major producers such as the United States, Russia, China, India, and Pakistan were not part of the treaty. Yet virtually all of the nonsignatories had endorsed the notion of a comprehensive ban on antipersonnel mines at some point in time, and many had already at least partially embraced the Mine Ban Treaty. United Nations General Assembly Resolution 55/33v calling for universalization of the Mine Ban Treaty was adopted in November 2000 by a vote of 143 in favor, none opposed, and twenty-two abstentions. Nineteen nonsignatories voted for the resolution.

The Mine Ban Treaty intersessional work program, with week-long meetings in Geneva in December 2000 and May 2001, successfully fulfilled its intended purpose in helping to maintain a focus on the landmines crisis, in becoming a meeting place for all key mine action players, and in stimulating momentum to fully implement the Mine Ban Treaty. The four intersessional Standing Committees on Victim Assistance, Mine Clearance, Stockpile Destruction, and General Status and Operation of the Convention helped to provide a global picture of priorities, as well as to consolidate and concentrate global mine action efforts. Compliance with all key articles of the convention became an overall focus of the second intersessional year. A Universalization Contact Group was formed, coordinated by Canada, with participation by a number of States Parties, the International Campaign to Ban Landmines (ICBL) and International Committee of the Red Cross (ICRC). In addition to many bilateral efforts to promote adherence to the Mine Ban Treaty, there were important regional conferences aimed at universalization, notably in Bamako, Mali in February.

The Third Meeting of States Parties to the Mine Ban Treaty was held in Managua, Nicaragua in September. States Parties, in close cooperation with the ICBL, developed an action plan for the year and issued a strong final declaration.

Just prior to the Managua meeting, the ICBL released the 1,175-page *Landmine Monitor Report 2001*, its third annual report looking at the landmine situation in every country of the world. The report, the product of a network of 122 researchers from ninety-five countries, cited many positive developments, including more than 185 million square meters of land cleared of mines in 2000; a revised estimate of new mine casualties of 15,000–20,000 per year, compared to previous

estimates of 26,000 per year; destruction of another five million stockpiled antipersonnel mines, bringing the total to 27 million in recent years; no known significant exports of antipersonnel mines; and a reduction in the number of producers from fifty-five to fourteen (with Turkey and Yugoslavia being removed from the list in the past year). However, the Landmine Monitor also identified use of antipersonnel mines in twenty-three conflicts by fifteen governments and more than thirty rebel groups in this reporting period (May 2000 to mid-2001). It reported a "strong possibility" of use by Mine Ban Treaty state party Uganda in June 2000 in the Democratic Republic of Congo, and called on states parties to seek clarification urgently.

The Second Annual Conference of States Parties to Amended Protocol II (Landmines) of the Convention on Conventional Weapons (CCW) was held in Geneva in December 2000, and there were preparatory meetings in December 2000, April 2001, and September 2001 for the Second CCW Review Conference, to be held in December 2001. Proposals presented and discussed at these meetings included: extension of the treaty's scope, compliance issues, antivehicle mines, wound ballistics, and the explosive remnants of war.

In the United States there were indications in late 2000 that the Clinton administration would announce several significant steps toward a ban on antipersonnel mines prior to departing office, but this did not materialize. Decisions were left to the incoming administration on controversial issues such as procurement of RADAM (a new "mixed" system combining existing antitank and antipersonnel mines) and a "man-in-the-loop" munition developed as an alternative to antipersonnel mines but which contains a feature to revert the munition to mine status. The Bush administration had not made a formal policy statement on antipersonnel mines by mid-November, and key developments were on hold pending completion of a comprehensive review of landmine policy and actions that began in June. The U.S. continued to be the leader in contributions to global mine clearance, devoting nearly U.S. \$100 million in both FY 2000 and FY 2001.

SMALL ARMS AND LIGHT WEAPONS

The United Nations Conference on the Illicit Trade in Small Arms and Light Weapons in All Its Aspects, mandated in December 1999 by the General Assembly, was held in July 2001 in New York. Flawed both in concept and in execution, it was considered a near-total failure by the human rights and humanitarian communities. While participating states did manage to produce a conference document (the program of action) despite a long list of contentious issues, the document was weak. The program of action ascribed primary responsibility for dealing with the black-market trade in small arms to states, yet did not allude to, much less prescribe, any measures to curb the flow of weapons to abusive actors through the irresponsible arms trade practices of governments themselves. The document did not codify any standards for the arms trade based on international humanitarian law or human rights, and made only a few vague references to the humanitarian urgency of the unchecked proliferation of small arms. It did not establish a transparent uni-

versal system for marking and tracing weapons, or record-keeping and reporting mechanisms (such as an international public register of small arms transfers). Finally, the program of action was not legally binding, nor did it mandate the negotiation of other legally binding documents, such as a treaty on measures to regulate the activities of independent brokers.

Confusion over the conference mandate hampered progress from the beginning, and the scope of the conference was still being debated by the third and final prepcom in March. The conference title referred specifically to the “illicit” trade in small arms, but by adding the phrase “in all its aspects,” the door was left open for states to tackle a critical facet of the problem: the legal, government-sponsored trade. However, while many states were adamant that battling the illicit trade in small arms was the responsibility of governments (as opposed to nongovernmental organizations, which were marginalized throughout the process), the same states insisted that the conference should not address government responsibility for creating the problem. Ignoring the fact that virtually every illicitly traded weapon was first traded legally, and that weapons were routinely traded “legally” to abusive forces, the conference rejected demands from civil society and some government delegations to develop stronger export controls and international standards governing the arms trade practices of states.

From the beginning, it was expected that major arms exporters, including most of the Permanent Five members of the U.N. Security Council, would try to water down any program of action. The surprise was the emergence of the United States, rather than Russia or China, in this respect. The U.S. had itself boasted relatively decent arms trade control mechanisms, including curbs on exports to human rights abusers and measures to ensure transparency. Yet with the change in administration following immediately after the second prepcom in January, the U.S. delegation began taking a blatantly obstructionist approach. An uncompromising U.S. position was articulated in an opening statement to the conference which shocked most observers and reflected the Bush administration’s disdain for multilateral arms control and multilateralism in general. The statement set down several positions which were said to be nonnegotiable, rejecting a mandatory Review Conference, the participation of nongovernmental organizations, and all “measures that would constrain legal trade and legal manufacturing of small arms.” It was clear throughout the conference that the domestic gun lobby wielded heavy influence in the U.S. delegation, imposing on the conference a belief that talk of international arms trade control would lead to the demise of the putative constitutional right of U.S. citizens to own guns. Other states antagonistic to the conference’s objectives were all too willing to let the U.S. dismantle the conference.

Other factors also hampered progress at the conference. Lack of interest in the process in general, and in the humanitarian dimension in particular, was evident in the make-up of most delegations. Many states refused to send senior Foreign Ministry representatives to the conference, and most delegations were staffed primarily by arms control experts (where staffed with any expertise at all) who were unfamiliar with human rights and international humanitarian law. Further distracting states from turning their focus to the humanitarian and human rights implications of small arms, where it belonged, were debates over peripheral issues, such as non-

state actors, self-determination, and self-defense, as well as myriad disputes over definitions.

Civil society was effectively excluded from participating in the conference. Limitations on NGO access were not officially agreed until the beginning of the conference itself, where it was decided that NGOs would be allowed to watch plenary proceedings from the gallery but could be sent out at any point if delegates opted for a closed session. (NGOs were also allowed one three-hour session to address delegates at each prepcom and during the conference.) States also debated whether or not to include language calling for civil society participation in the program of action. The U.S. in its opening statement opposed this, claiming that such participation was not “consistent with democratic principles,” and other delegations insisted that implementation of the program of action was the exclusive realm of states. The document did, however, contain language on civil society cooperation in some areas.

In addition, negotiating the program of action was a consensus-driven process that allowed rejectionist states such as the U.S. to hijack the outcome by simply refusing to compromise on key issues, resulting in a document based on the lowest common denominator that was predictably weak, even on those issues that were not cut from the final draft. One positive outcome was the commitment to a review conference after five years, making this the only red-line position on which the U.S. delegation was eventually willing to back down. The conference also served to raise the profile of small arms proliferation internationally, and allowed civil society organizations to rally around a specific event and develop momentum and focus for future work.

Relevant Human Rights Watch Reports:

Landmine Monitor Report 2001: Toward a Mine-Free World, 9/01

Crisis of Impunity: The Role of Pakistan, Russia, and Iran in Fueling the Civil War in Afghanistan, 07/01