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DISARMAMENT, INTERNATIONAL LAW: INTERDEPENDENCE

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ABSTRACT:

In today's era where the technology is at its peak, every State is making undying efforts to overpower one another. When after the world has already faced two World Wars and it's sabotaging and devastating effects, it is time when the world shall make steps for Disarmament. The complete



reduction or limiting arms, weapons mean Disarmament. As long as men would keep looking for ingenious ways to kill other men, the natural world through science will keep providing those. Whereas the same ingenuity, knowledge, urge could be used for the creation of healthy, resourceful, pleasant and brotherly environment for the

entire mankind. This is the ultimate aim of the Disarmament policy that International Law is looking to reach at.

KEY WORDS: Disarmament policy that International Law, creation of healthy, pleasant and brotherly environment.

INTRODUCTION:

Humans have wielded weapons since the beginning of recorded history, both against other humans and the beasts that threatened them or provided them sustenance. With the rise of the modern nation-state, every nation accumulated weapons for waging wars with other nations, or for

detering them. But not until the 20th century, with the proliferation of new ideas and extraordinarily destructive weapons, did nations seek to regulate the accumulation of armaments. In the aftermath of World War I, the victorious powers imposed stringent limitations on German armaments and agreed with one another to limit their naval weaponry in the hope of forestalling arms races and avoiding another major war. These efforts failed to prevent the rearmament of Germany and the revival of arms races among the great powers in the 1930s, which, in turn, led to World War II. In the aftermath of World War II, fear of nuclear holocaust led the great powers to concentrate on limitation of nuclear weapons, with results that remain hotly disputed among historians. Other forms of arms control have also proliferated since that time. Biological and chemical weapons have been the subjects of numerous treaties. During and after some low-intensity insurgencies, foreign powers and indigenous governments have sought to remove small arms from the population as a means of reducing violence¹.

MEANING AND DEFINITION OF DISARMAMENT

Disarmament means nothing but the act or instance of disarming or the reduction or limitation of the size, equipment, armament of the any defense stream that is Army, Navy, or Air Force of any State. It means nothing but the reduction of the usage of weapons, ammunitions. It can be said to the reduction of reduction of military establishment of a State to some level as agreed under the International law and its treaties in that regard. It is the reduction or withdrawal of the military forces or weapons. This concept came in to existence out of the need to save the international society from vast destruction faced by the use of force or weapons. The after effects of the two World Wars sabotaged the entire international community. And then need was felt to make such schemes on the International level for reduction of all sorts of ammunitions and weapons. The main aim was to control the usage of nuclear armaments as it has very large destructive effects and can have very damaging consequences on the generations coming.

DISARMAMENT – THE CONCEPT

Disarmament is a very complicated and gigantic problem in the modern period. The devastating effects of nuclear weapons have further added to the urgency of the problem. Numerous efforts have so far been made to achieve disarmament but unfortunately a very little, rather negligible, success has been achieved. Disarmament has been discussed for several centuries but plans for its implementation has failed because no State whose participation was essential was willing to pay the price that is required.

The concept of Disarmament is not a very new but its origin can be traced back in the times of Sully, William Penn, Rousseau and Kant. The proposal of Russian Isar to Lord Castlereagh of Great in 1816 was, however, the first practical attempt to achieve quantitative disarmament. Similar proposals were made by the French monarch 1831 and on several occasions but with no success. Great Britain and France made abortive attempts also before 1890. The International peace Conference at Hague in 1899 is the first great landmark in the field of disarmament because it was invoked for the specific purpose of limiting armaments by national agreement. Thus, during the nineteenth century and down to the time of the First World War numerous efforts were made to achieve the limitation and reduction of national armaments by national agreement. Yet another landmark was the Treaty of Versailles, which drastically limited the German armaments. Considering the period after 1918, although there was a great deal of discussion on disarmament at many disarmament conferences, the only respect in which the disarmament was effective was in regard to navies, that too in very limited scale².

As explained in the meaning, disarmament is nothing but the reduction of the size or the

destructive capacity of a person to commit any act of violence. Despite being the fact that for lessening the conflicts on international level disarmament is a sustainable instrument, but it cannot be said to be the sole instrument. Disarmament as tool to reduce conflict is not only workable at the International level only dealing with conflicts between two states, but also at the national level for reducing the violence between the internal subjects of the states.

Practically disarmament is really a difficult concept as every state is under the effort to overpower the other state. There is lack of trust relations under International relationships between States. Hence it is a very sensitive issue but at the same time a very important issue so as to maintain relations between two States on International level.

EFFORTS MADE FOR DISARMAMENT POLICY

1. League of Nations and Disarmament:

The covenant of the League of Nations dealt at length with the reduction of armaments. The League of Nations was the first ever attempt made in the history to furnish international society on nations with certain everlasting and organic political institutions. And this was the outcome of the First World War. The after effects of the war were so outrageous for the entire human society, which gave rise to the need and creation of International Law and Order. Since the League of Nations was the child of the First World War, it was very obvious for its framers to secure the reduction of armaments.

The covenant, therefore, provided that League Council, with assistance of a permanent Advisory Commission, would formulate forms reducing arms. The Covenant recognized that the maintenance of peace required the reduction of national armaments to the lowest point consistent with national safety and the enforcement by common action of International obligation.³ The efforts of the League of Nation to promote disarmament failed because of the frantic efforts of re-armaments by Germany.

As a matter of fact those who failed to abide by their solemn obligations abandoned League of Nations. As written by Prof. Goodspeed, The League of Nations failed because the Covenant had many defects, weaknesses, had a faulty drafting and that obstacle its swift functioning. But primarily its goals were very difficult to be reached at, due to the absence of will to achieve those goals.

2. Geneva Protocol and The Conference of the Geneva

The World Disarmament Conference, formally known as the Conference for the Reduction and Limitation of Armaments, convened in Geneva on 01 February 1932. Disarmament had been a lively topic in diplomacy since the World War, and while statesmen tended to view it cynically, the Depression had made armaments more of a burden for all nations. There was hope, if not conviction, that an acceptable disarmament formula might be found. Hoover was a strong supporter of disarmament, principally for economic reasons. He hoped that even the nervous French could be coaxed into an agreement that would allow reduction of armaments by one-third.

One of the often-suggested substitutes for arms limitation was an agreement to abolish "aggressive" or "offensive" weapons, which included submarines and bombers. Submarines and bombers were not only burdens on the taxpayers of the great powers that maintained them, but there were unsettled moral questions regarding their use. Submarines had been used against ocean liners carrying noncombatants. Likely targets for bombers were cities and industrial areas. Suggestions to abolish these weapons had considerable appeal. Peace groups insisted that the US Congress observe the limits on naval armaments established by agreements negotiated at various international conferences. Such demands began before World War I, and naval treaties were concluded at

Washington, DC and London, England, in 1922, and 1930 respectively, and the Geneva Conference of 1932.⁴

The member States who participated in the Conference agreed on necessity of arms limitation of international supervision of the arms business and of publicity of arms budget. But the Conference could never reconcile the demands of French of equally insistent German determinations to regain status of equality with the other European powers. So the general disarmament was highly impossible unless these positions were reconciled. Then later on any hope of compromise was wrecked down by the rise of Adolf Hitler and the ever-mounting suspicion of France. However the Conference proved to be useful for some of the technical problems of the disarmament. Also it became very significant that the security was very important requisite to guarantee any system of limiting armaments. Hence disarmament must be followed rather than the precedence of the security. The Geneva Protocol or Protocol for the Prohibition of the use of Asphyxial Poisonous or other Gaseous and of Bacteriological Methods of War was signed on 17th June 1925. It entered into force for each signatory as from the date of deposit of its ratification accession takes effect.⁵

3. United Nations and Disarmament

The Charter of the United Nations does not speak of the reduction but of “regulation” of armaments. The provisions relating to disarmament in the U.N are as follows:

(1) After having determined “to save the succeeding generations from the scourge of war” and for the end “to ensure that armed force shall not be used, save in common interest”. The Charter goes on to empower the General Assembly to consider the general principles of co-operation in the maintenance of international peace and security, including the principles governing disarmament and the regulation of armaments and to make recommendations with regard to such principles to the Members of the Security Council or to both.

(2) In order to promote the establishment and maintenance of international peace and security with the least diversion to for armaments of the world’s human and economic resources, the Security Council shall be responsible for formulating with the assistance of the Military Staff Committee referred to in Article 47, plans to be submitted to the members of the U.N for the establishment of a system for the regulation of the armaments. The Charter aims to provide security along with the regulation of armaments by grading military powers to the U.N.⁶

(3) The Charter makes provision for a Military Staff Committee to advise and assist the Security Council on all questions relating to the Security Council’s military requirements for the maintenance of international peace and security.

(4) In order to enable the U.N to take urgent military measures, the Charter enjoins the Members to hold immediately available national air force contingents, for combined international enforcement action.⁷

Establishment of the U.N Atomic Energy Commission

In March of 1946, less than a year after the first detonation of an atomic weapon, a group of U.S. officials met at Dumbarton Oaks in Washington, D.C., to develop the first nuclear arms control proposal, calling for comprehensive nuclear disarmament.⁸ The U.N General Assembly also adopted its first resolution, calling for the peaceful uses of atomic energy and elimination of weapons of mass destruction. Bernard Baruch was the first U.S representative to the Commission and he presented a proposal that the U.S would destroy its atomic arsenal on condition that the U.N imposed control on atomic development that would not be subject to U.N Security Council Veto. These controls would

allow only the peaceful uses of atomic energy.

The Baruch Plan envisaged the establishment by treaty and international Atomic Development Authority to own, operate, manage and license all facilities for the production of atomic energy.⁹ The proposal was viewed with skepticism by the Soviet Union and denounced as an attempt by the United States to maintain nuclear superiority. These fears were reinforced when the U.S. Congress passed the Atomic Energy Act to establish the U.S. Atomic Energy Commission as sole manager of all nuclear materials and facilities in the United States, and to prohibit all interstate exchanges of atomic information.¹⁰

Disarmament Commission

In the year 1949, the monopoly of the U.S over the atomic weapons ended. Establishment of the Disarmament Commission by the VI General assembly was next big step in this regard in the year 1952. The consolidation of the U.N Atomic Energy Commission and the U.N Commission took place for conventional Armaments. International Control Organization should not interfere in the domestic affairs of the States.¹¹

International Atomic Energy Agency (IAEA)

Under the aegis of the United Nations a conference on international level was held in August 1955 for the peaceful usage of atomic energy. India became its member in 1957. According to the statute of this agency the aim of it is, to 'seek to accelerate and enlarge the contribution of atomic energy to peace, health and prosperity throughout the world.' The IAEA comprises of three organs: a) General conference, b) A Board of Governors, C) Staff Headed by Director-General. The IAEA has a special status under the protection of U.N but is not a specialized agency or an independent inter-governmental organization.

The Antarctica Treaty was signed at Washington in December 1959. Article 1 of the treaty states that Antarctica shall be used for peaceful purposes only. There has been prohibition for any measures of a military nature, such as the establishment of military base and fortification, carrying out of military manoeuvres, as well as the testing of any types of weapons. However, the treaty does not prevent the use of military personnel or equipment for scientific research or any other useful purposes.

There have been made many efforts for disarmament from 1960-1970.

The Partial Test Ban Treaty in the year 1963 that prohibited nuclear tests in the atmosphere, in outer space under water. France and China have refused to sign this treaty. Article 1 of this treaty states that the parties to the treaty are prohibited to prevent and not to carry out any nuclear weapon test explosion, or any other nuclear explosion, at any place under its jurisdiction or control, in the atmosphere beyond its limits, including outer space or under water, territorial waters or high seas.

The Outer space Treaty in 1967, gave the principles governing the activities of States in the Exploration and use of outer space including the Moon and of other Celestial Bodies that banned nuclear and other weapons of mass destruction from outer space and demilitarization of celestial bodies. Then there was Treaty for the Prohibition of Nuclear Weapons in Latin America and the Non-Proliferation Treaty in 1968 that prohibited further use of weapons under Article 1.

The period between 1970- 1980 was considered as the Disarmament Decade.

The Treaty on the Prohibition of the Emplacement of Nuclear weapons and other weapons of Mass Destruction on the seabed and Ocean floor and in the sub-soil thereof or Sea- bed Treaty, 1972.

The importance of the treaty as a disarmament measure lies in the fact that it has been predicted that, the potential for a war would be decided largely by its under sea component in the future. This treaty is an important step in the international affairs for demilitarization of the sea.¹²

Convention on the Development Production, Stockpiling of Bacteriological and Toxin weapons and on their Destruction, 1971. This convention was entered in to the supplement of 1925 Geneva Protocol.

Disarmament and Outer Space

Outer space is another is another area wherein certain efforts have been taken place. Prof. Bloomfield said that, 'in the realm of arms control, which could ultimately prove to be the most important aspect of international co-operation in space, some modest steps have been taken by ban on nuclear weapon tests in outer space and the agreement not to orbit nuclear weapons.

There were treaties like Strategic Arms Limitation Talks or SALT

An agreement between U.S and U.S.S.R, which was made with the object that both the States would agree on the plan to limit and reduce their vast nuclear arsenals. An agreement limiting the strategic offensive and defensive system of the U.S and U.S.S.R would go the heart of security concerning the two countries. The said agreement, however, permitted both countries to replace existing offensive nuclear missiles, whether placed on land or a board at sea, with more sophisticated weapons as technological advance permits.¹³

Geneva Disarmament Conference

The Geneva Disarmament Conference of 25 nations began in 1974. The Secretary General of the UN appealed to the nations attending Conference to enter into an agreement on chemical weapons and prohibition of the use of nuclear weapons under the ground. But no progress in this field could be achieved.

Special Session of General Assembly on Disarmament in 1978

In the year 1976, the General Assembly decided to hold a special session on disarmament in 1978. The final document consisted introduction, a Declaration, a Programme of Action, and recommendation regarding internal machinery for disarmament negotiations. The final document insisted that the resources released through disarmament could be used to promote the well being of all people and improve the economic conditions of developing countries.

Evaluation of Disarmament efforts by the U.N

Security has failed to play a active role in the discussions regarding disarmament also its responsibility was put on it by the UN Charter, for formulation of the system to regulate armament. The General Assembly became the important forum discussions on disarmaments as because the main protagonists failed to compromise their differences. On the international platform, the UN plays a very significant and essential role so as to bring all the States to the middle path for solving this issue. It gives stage to communication and interaction so as to bring about peace and maintain security.

Star War

The Strategic Defense Initiative is formally know as 'Star War'. The plan was based on the strategy that if America was ever attacked by nuclear weapons, it would destroy the said weapons in

the outer space or space and would not allow them to come down on earth.¹⁴ The possibility of the limited nuclear war has also been taken in to account. The mere ideal of limited nuclear war is very dangerous. Considering the legal position of the Star War under the international law has been given consideration under two heads:

(a) Laws of Outer Space, (b) Laws of War.

Article IV of the Outer Space Treaty provides that the parties to the treaty undertake not to place any objects carrying nuclear weapons or celestial bodies in to the orbit around the earth. Hence, the use of nuclear weapons or threat thereof is considered to be violative under International Law.

There have been made many such efforts on the international level for disarmament. Many of them between the two big States and that is U.S and U.S.S.R. Agreement to ban Chemical Weapon, Summit on Naval Arms Control, Pledge by U.S to Destroy Chemical Weapons. The Intermediate Nuclear Force Treaty or I.N.F Treaty, under which both the great powers have pledged to destroy nuclear missiles stationed at earth, having intermediate range of 500-5000 kilometers.

Indian Proposal to Ban Nuclear Arms

In November 1988, India introduced three proposals, (i) A freeze on nuclear weapons; (ii) A convention on the prohibition of the use of nuclear weapons and; (iii) Assessing Scientific and technological advances and their impact on international security- in the U.N General Assembly to freeze nuclear weapons production and ban their use. It was contended that if technology not used properly and not given a human face to it, it would create deadlier and even more destructive weapons. Comprehensive Test Ban Treaty (CTBT)- A conference was held in Geneva to adopt the Comprehensive Test Ban Treaty in June 1995. The treaty contained comprehensive plans to prohibit nuclear tests and seeks to remove the shortcomings of the Treaty of Non- Proliferation of nuclear weapons. According to India, this Treaty seeks to perpetuate the monopoly of nuclear States and discriminates against non-nuclear states. As the objection raised by India were not considered and removed India refused to sign the Treaty, despite the pressures from the Western States.

Biggest Arms Reduction Pact between U.S and Russia

In April 2010, the presidents of the both the States entered in to the biggest agreement for reduction of arms. Both the States through the agreement, agreed to reduce 1/3 nuclear war arms, missiles and submarines and also the aircrafts carrying them. But unfortunately, even after such a big agreement between the States, U.S is developing such deadly nuclear missiles that can strike any part of the world within the span of an hour.

CONCLUSION

International relations would not reach stable point as long as arms race continues. Therefore in the present condition scenario, for maintaining International peace and security there is no better option that disarmament. Effective, and ample disarmament would primarily be possible only if the major power States of the world community come down for the climate of trust and mutual relation and understanding. Progress towards disarmament depends heavily on concurrent progress towards an international legal order. Hence to bring about peace and security equally throughout the world the disarmament under the International law has a great significant position.

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