The Oslo Land Mine Treaty and an Analysis of the United States Decision Not to Sign

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The Oslo Land Mine Treaty and an Analysis of the United States Decision Not to Sign

I. Introduction

For almost all Americans, the threat of injury from an anti-personnel land mine must seem remote. Americans do not fear that they will detonate a mine and blow off a limb when they walk down the street of a city or town in the United States. However, for Marianne Holtz, a former public nurse from Boise, Idaho, the land mine problem is very real. Holtz has worked in refugee camps in Somalia, Sudan, Ruwanda and Zaire. It was in Zaire on a road that was supposed to be safe where a jeep Holtz was traveling in struck a land mine. Holtz lost both legs above the knee. After seven surgeries, Holtz can now walk with a prosthesis for a short period, but is mostly relegated to her wheelchair. Now, Holtz can no longer function as a nurse, and at fifty-eight years old has dedicated her life to educating the public about the horrors of land mines. For this Boise, Idaho woman, the horror is very real.

This Comment focuses on the startling land mine problem that confronts the worldwide community and the very recent legislative
attempts that have been made to deal with this problem. Specifically, in Oslo, Norway on September 17, 1997, a treaty was drafted and agreed upon by close to 100 nations. This treaty, entitled the “Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction” is the first international treaty to establish an outright ban on land mines.

Part I of this Comment will examine, with the use of statistics, the horrors wrought by land mine deployment worldwide. In addition, this Part will show the general patterns of injuries caused by mine contact and will present case studies of two countries, Angola and Cambodia, to demonstrate not only individual hardships created by mine deployment, but their effect on the social and economic well-being of an entire nation. Part II of this Comment will examine past attempts by the United Nations to regulate land mines, which have not been successful. Part III will give a brief history of the Ottawa Process, which culminated in the treaty agreed to by close to 100 nations in Oslo. Part IV will outline the policy reasons for the United States' decision not to sign the Oslo treaty. Finally, Part V will analyze the pros and cons of the United States' decision and how this decision may effect the overall success of the treaty.

A. Land Mines Threaten Worldwide Population

The problems created by land mine deployment throughout the world are severe and the statistics that have arisen from deaths and amputees are startling. Land mines have handicapped over 250,000 people worldwide. Each month alone, land mines kill 800 people and maim 1200. In fact, land mines are responsible for

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9. Gilles Laffon, Land Mines: The Incredible Cost on the World, AGENCE FRANCE PRESS, Sept. 18, 1997 (according to the International Committee of the Red Cross (ICRC) Angola, Eritrea, Mozambique, Somalia and Sudan as well as Afghanistan, Cambodia, Bosnia and Iraq have been the hardest hit by land mine casualties).
10. Pressure Growing to Cut Off Use of Land Mines, PANTAGRAPH, Aug. 18, 1997, at A1, (according to reports distributed by American Red Cross); see also Laffon, supra note 9 (indicating that other reports estimate that land mines kill closer to 2000 people a month).
a victim every twenty minutes.\textsuperscript{11} Unfortunately, an overwhelming and growing majority of the victims are civilians.\textsuperscript{12}

The death and amputee casualties caused by mine deployment have created tremendous economic problems worldwide. The cost of making an anti-personnel mine is only thirty dollars, and some may be bought for less than that.\textsuperscript{13} However, it costs between three hundred and 1,000 dollars to search and clear a single anti-personnel land mine.\textsuperscript{14} Many young children are victims of land mines, and they are faced with a life-long struggle to survive.\textsuperscript{15} Furthermore, because most of these children are from third world countries and low income families, they are relegated to a lifetime with crutches.\textsuperscript{16}

The problem created by many years of land mine deployment worldwide is not going to go away quickly. In fact, one hundred and ten million live charges remain buried in the ground in more than sixty countries worldwide.\textsuperscript{17} This number represents one mine for every sixty human beings on earth.\textsuperscript{18} Experts estimate that at the current rate of clearance, it would cost thirty-three billion dollars and would take eleven centuries to clear all existing mines worldwide.\textsuperscript{19}

\section*{B. General Patterns of Injuries From Land Mines}

The International Committee of the Red Cross (ICRC) studied patients in two of its hospitals for patients injured in war areas.\textsuperscript{20} Seven hundred and fifty-seven patients were studied who had sustained injuries from contact with anti-personnel land mines.\textsuperscript{21} However, this study only related to victims actually admitted to

\begin{itemize}
\item \textsuperscript{11} See \textit{Pressure Growing}, supra note 10.
\item \textsuperscript{12} Laffon, supra note 9.
\item \textsuperscript{13} See \textit{id}.
\item \textsuperscript{14} See \textit{id}.
\item \textsuperscript{15} See \textit{id} (finding that for a ten-year old child who loses a limb due to a land mine this child could have to get twenty-five different prostheses during his or her lifetime, at a cost of $3125).
\item \textsuperscript{16} See \textit{id} (according to the ICRC individuals in most third-world countries have an income of $15 a month).
\item \textsuperscript{17} Woodward, supra note 1 (finding that many of these mines are American made).
\item \textsuperscript{18} \textit{Pressure Growing}, supra note 10.
\item \textsuperscript{19} Laffon, supra note 9.
\item \textsuperscript{21} \textit{Id} at 1510.
\end{itemize}
ICRC hospitals. Most of the seriously injured victims are not seen due to the long and extenuating excavation problem in getting the injured from remote areas to the hospital.\textsuperscript{22} The ICRC was mostly interested in studying the patterns of those injured and the potential drain that the injuries created on surgical resources.\textsuperscript{23}

The ICRC concluded from its study that there were three recognizable patterns of injuries seen at their hospitals.\textsuperscript{24} Pattern one injuries are triggered by a person standing on a buried mine.\textsuperscript{25} The result is usually an immediate amputation of a lower limb or part of a lower limb because the mine is specifically designed to incapacitate in this way.\textsuperscript{26} These injuries are the greatest drain on surgical and transfusion resources.\textsuperscript{27}

Pattern two injuries result from the detonation of a fragment mine.\textsuperscript{28} These mines resemble a grenade and are often triggered by a trip wire.\textsuperscript{29} A person who triggers or detonates these mines rarely survives.\textsuperscript{30} Others in the immediate area may also be injured by flying fragments.\textsuperscript{31} This pattern of injury was the most common of all those that were studied.\textsuperscript{32}

A pattern three injury is triggered by a person handling a mine.\textsuperscript{33} Because of the direct contact with the mine, most of these patients required amputations of part or all of their arms and

\\textsuperscript{22}. See id. at 1511. According to ICRC the long and difficult path to get medical assistance in the hospitals means that the most seriously injured are not brought to the hospital and often die in the field. Id. at 1510. In fact, of those victims studied in this report, most were admitted to the ICRC hospital six to twenty-four hours after they were injured. Id.
\\textsuperscript{23}. See Coupland and Korver, supra note 20, at 1509 (according to the authors of this report the stated objective was "to describe and quantify patterns of injury from antipersonnel mines in terms of distribution of injury, drain on surgical resources, and residual disability").
\\textsuperscript{24}. Id. (stating that each pattern carries its own implication for the surgeon and the patients' long term disability prognosis).
\\textsuperscript{25}. Id.
\\textsuperscript{26}. See id. (finding also that these patients often suffer bilateral amputations and arm, central body and genital injuries).
\\textsuperscript{27}. See Coupland and Korver, supra note 20, at 1511.
\\textsuperscript{28}. See id. at 1509 (explaining that these injuries were more random, mainly consisting of multiple fragment wounds all over the body).
\\textsuperscript{29}. Id. at 1509-1510. These mines may also be ejected from the ground for the purpose of exploding at waist height and thus creating upper body injuries. Id.
\\textsuperscript{30}. Id. at 1510 (citing Adams, D.B., Schwab, C.W., Twenty One Year Experience with Land Mine Injuries, F. TRAUMA 28 (suppl): S159-62 (1988)).
\\textsuperscript{31}. See Coupland and Korver, supra note 20, at 1510.
\\textsuperscript{32}. Id. at 1511.
\\textsuperscript{33}. Id. at 1510 (stating that those digging up or defusing a mine, laying the mine or in the case of children, playing with the mine, represent the most common victims of these types of mines).
hands. Furthermore, ten out of forty-one of the patients with pattern three injuries sustained eye injuries as well. Overall, the surgical demand for pattern three injuries was the smallest drain on surgical resources.

C. Case Studies: Cambodia and Angola

The statistics involving anti-personnel land mine fatalities and amputees are startling. The effects of these mines have very practical and threatening consequences to the nations that have seen extensive mine deployment. By briefly highlighting two of the nations hardest hit by the use of anti-personnel land mines, Cambodia and Angola, the overall effect of these gruesome statistics can be given a real world perspective. This will ultimately illustrate the economic and social consequences to the many third world countries that have been devastated by years of mine deployment.

1. Cambodia—A passenger arriving at Cambodia’s Phnom Penh airport need only go to the visa desk for an immediate encounter with one of Cambodia’s biggest national problems, land mines. A poster hangs on the wall behind the desk to warn visitors of the eight to ten million mines currently in Cambodian soil. Warnings tell visitors that guerrillas tend to use bent twigs to warn their fellow guerrillas of nearby mines. Furthermore, the poster portrays civilian mine victims with black and white photographs.

The United States State Department has categorized Cambodia as “a textbook case of a country crippled by uncleared land mines.” They reiterate that “in no country in the world have

34. See id. at 1511 (finding that precisely thirty percent of those with pattern three injuries with injured upper limbs receive amputations).
35. Id. (stating that those with eye injuries had varying degrees of vision loss).
36. See Coupland and Korver, supra note 20, at 1511.
38. Id. (stating that these mines have been a result of years of turmoil and guerilla warfare in Cambodia).
39. Id.
40. Id.
uncleared land mines had such an enormous adverse impact as in Cambodia. In fact, Cambodia currently has over 30,000 amputees. In 1990 alone, 6000 Cambodians suffered amputations. Cambodia has the highest percentage of amputees of any country in the world. Experts estimate that one out of two hundred and thirty-six Cambodians have lost one or more limbs.

The anti-personnel land mines that scatter the countryside of Cambodia are a result of the Vietnam conflict and many years of civil war. Five groups are primarily responsible for the mine deployment in Cambodia: (1) Vietnam government; (2) Hun Sen; (3) Khmer Rouge; (4) Khmer People’s National Liberation Front (KPNCF); and (5) Prince Sihanouk’s United Front for an Independent, Neutral, Peaceful and Cooperative Cambodia (FUNCINPEC).

The land mines that cover half of the Cambodian countryside have had a major negative effect on Cambodia’s agricultural economy. Without land mines, Cambodia could increase its total farmable land one hundred and thirty-five percent, or 6608 hectares in addition to the current farmable land of 4904 hectares. Very large amounts of agricultural land have officially been rendered

42. Id. at 165 (quoting HIDDEN KILLERS at 64).
43. Id. at 166.
44. Id. (finding that most of these casualties were civilians, which included a high number of peasants that stepped on mines while farming).
45. Id. at 173.
47. See ARMS PROJECT, supra note 41, at 167; see also Smith, supra note 46, at 510 (stating that four to seven million uncleared land mines remain scattered in Cambodia).
48. See ARMS PROJECT, supra note 41, at 167 (finding that most of these mines were laid between 1979 and 1991).
49. See id. at 165 (finding that half of the country contains heavy concentrations of land mines and are largely deployed along Cambodia’s seven hundred kilometer border with Thailand).
50. Neil Anderson, et al., Social Cost of Land Mines in Four Countries: Afghanistan, Bosnia, Cambodia, and Mozambique, BRITISH MEDICAL JOURNAL, Sept. 16, 1995, at 718 (LEXIS, World Library, Allwld File) (stating that the figures of farmable land have been calculated from a study in which 6090 households in Cambodia were interviewed in thirty-eight different villages representing over 33,950 total Cambodians).
unusable.\textsuperscript{51} As a result, there are grave difficulties in the countryside for families to provide adequate food.\textsuperscript{52}

Rural populations who once relied on the fields now rendered unusable have moved to Phnom Penh and other towns and cities.\textsuperscript{53} This exodus has more than doubled Phnom Penh’s population and has thus put social strains on its limited infrastructure.\textsuperscript{54} Furthermore, because most civilian amputees never get artificial limbs, they tend to drift to Phnom Penh or larger towns, and become beggars or petty criminals.\textsuperscript{55}

Cambodia is in no economic condition to handle the medical needs of land mine victims.\textsuperscript{56} The cost is very high to manufacture and distribute the number of artificial limbs needed.\textsuperscript{57} In 1991, only one in eight amputees received an artificial limb and most of those amputees were soldiers.\textsuperscript{58} Most civilian amputees are sent home with no rehabilitation and very little chance of receiving an artificial limb.\textsuperscript{59} Unfortunately, Cambodia has no laws to protect these amputees against discrimination or exploitation.\textsuperscript{60}

\textsuperscript{51} \textsc{Arms Project, supra} note 41, at 166 (finding also that the nation’s road network is so polluted with land mines that civilians often cannot travel from one village to another or, if they can, are kept to very small footpaths).

\textsuperscript{52} \textit{See Brit. Med. J.}, \textit{supra} note 50, at 35 (finding that households with a mine victim were forty percent more likely to report difficulty in providing food for the family).

\textsuperscript{53} \textit{See Arms Project, supra} note 41, at 166 (stating that the exodus to the cities has greatly lessened Cambodia’s agricultural output).

\textsuperscript{54} \textit{Id.}

\textsuperscript{55} \textit{Id.} at 175. Amputees in a largely rural society often find that they cannot compete with able-bodied persons for farmland and production. Also, female amputees are found less desirable as wives and in some cases women have abandoned their husbands as they become more impoverished. \textit{Id.}

\textsuperscript{56} \textit{See Arms Project, supra} note 41, at 175. Cambodia has a very poor health care system. Many of the hospitals are grossly overpopulated forcing patients to sleep outside on cots and bamboo mats or just prop themselves up against the wall. \textit{Id.} at 174.

\textsuperscript{57} \textit{See id.} at 176 (finding that only one-half of the amputees in Cambodia have artificial limbs).

\textsuperscript{58} \textit{Id.}

\textsuperscript{59} \textit{See id.} (finding that even though some civilians might have heard about workshops that produce artificial limbs (Cambodia has twelve such shops), they often elect to return directly to their villages and towns rather than pay the extra expense involved in buying an artificial limb).

\textsuperscript{60} \textsc{Arms Project, supra} note 41, at 175-76 (stating that the past Hun Sen government was supposed to provide a monthly pension for the amputees, but relief agencies in Cambodia have reported that either there was one lump sum payment at the beginning or there was no payment made at all).
Land mines have not only killed and maimed the people of Cambodia, but they have also devastated the nation. The social and economic structure has been weakened as the result of caring for victims, manufacturing and supplying artificial limbs and supporting those victims who become unable to support themselves. Cambodia has felt the tremendous negative impact of over thirteen years of mine deployment.

2. Angola—When the Portuguese withdrew from Angola in 1974 and a civil war ensued, land mines were used to reduce the amount of agricultural lands among the rival populations. These mines were deployed in civilian areas thereby creating many hazards for the Angolan civil population.

Angola is second only to Cambodia in the highest per capita ratio of land mine victims in the world. Between 1975 and 1991, 6,728 people were killed by mine explosions. In Angola, however, and unlike other nations that have suffered due to mine deployment, there is a greater chance that children will be mine victims. In fact, according to a 1990 survey of the one hundred and thirteen land mine victims recorded by the ICRC, twenty-nine were children.

The statistics representing the Angolans who have been maimed are as shocking as those of the number killed. There are

61. See id. at 173 (noting that Cambodia has the highest number of amputees of any country in the world per population).
62. See id. at 166.
63. ARMS PROJECT, supra note 41, at 175-177 (The September 1991 Asia Watch and Physicians for Human Rights report, Land Mines in Cambodia, stated that “[t]he widespread presence and density of land mines in Cambodia must be considered a humanitarian emergency, separate from, and regardless of, the other crises facing the Khmer people.”). Id. at 183.
64. See ARMS PROJECT, supra note 41, at 167.
66. Id. (finding the mines have increasingly been used in Angola in non-traditional ways among the warring factions to create famine in other groups by reducing the amount of agricultural lands and by strangling the roads and damaging the supply and transportation network).
67. See id. There are three main warring factions in Angola: one largely supported by the Soviet Union and Cuba; another receives support from Zaire and South Africa; and the third receives support primarily from the United States. Id. (citing HUMAN RIGHTS WATCH, Land Mines in Angola 59 (1993)).
68. See ARMS PROJECT, supra note 41, at 150.
69. Id. at 155.
70. See McCall, supra note 65, at 247.
71. ARMS PROJECT, supra note 41, at 155.
now at least 15,000 Angolan amputees.\textsuperscript{72} One-half of these amputees are civilians.\textsuperscript{73} Five thousand artificial limbs are needed yearly and this number far exceeds the number Angola can afford to manufacture.\textsuperscript{74}

The Angolan economic and social structure, like Cambodia's, has also been devastated due to land mine deployment.\textsuperscript{75} The inability to travel freely on Angolan roads is a formidable obstacle to the movement of any commerce.\textsuperscript{76} Furthermore, because there is little hope for the maimed to be rehabilitated, their chances of finding employment and food in an agrarian economy are very low.\textsuperscript{77} This, in turn, has created a huge refugee problem in Angola which further drains the nation's economic resources.\textsuperscript{78}

The prospect of ending this problem in Angola appears hopeless. The efforts to clear the more than twenty million mines\textsuperscript{79} laid during the civil war has been inadequate.\textsuperscript{80} The Angolan government has been hampered by a lack of equipment, money and cooperation.\textsuperscript{81} To make matters worse, the international community has not made a strong commitment to assisting Angola in its mine clearing efforts.\textsuperscript{82}

The people of Angola and the nation itself have suffered enormously due to the mines laid as a result of years of civil war and strife. Due to the nature of the war, little consideration was

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\textsuperscript{72} McCall, \textit{supra} note 65, at 247.
\textsuperscript{73} ARMS PROJECT, \textit{supra} note 41, at 150 (stating that civilians are often injured in their fields or while working on roads, riverbanks and inside built-up areas).
\textsuperscript{74} \textit{See id.; see also} McCall, \textit{supra} note 65, at 247 (finding that emergency care and first aid in Angola is extremely rudimentary, and rehabilitation for the amputees is seldom available).
\textsuperscript{75} \textit{See ARMS PROJECT, supra} note 41, at 159 (stating that thousands of acres of farmland, pastures, forest and riverbanks are now unusable).
\textsuperscript{76} \textit{See id.} (finding that relief supplies can only be delivered nationwide with great fear and difficulty).
\textsuperscript{77} McCall, \textit{supra} note 65, at 247.
\textsuperscript{78} \textit{See id.} (finding that the total number of refugees not only cripples the Angolan economy but also seriously impedes the development of the political process and the peace effort).
\textsuperscript{79} Smith, \textit{supra} note 46, at 509.
\textsuperscript{80} \textit{See ARMS PROJECT, supra} note 41, at 160; \textit{see also} McCall, \textit{supra} note 65, at 247 (stating that there are thirty-seven different land mine types identified and there are few minefield records left by the warring factions).
\textsuperscript{81} \textit{See ARMS PROJECT, supra} note 41, at 161; \textit{see also} McCall, \textit{supra} note 65, at 247.
\textsuperscript{82} \textit{See ARMS PROJECT, supra} note 41, at 160.
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given for protection of the civilian population. This devastation demonstrates the effect that land mines can have on the existence and progress of an entire nation.

II. The United Nation’s Past Legislative Attempts to Regulate Land Mines

In September of 1979, The United Nations General Assembly organized the “Prohibition or Restrictions of Use of Certain Conventional Weapons Which May be Deemed to be Excessively Injurious or to Have Indiscriminate Effects” in response to the excessive and unnecessary suffering brought on by mines and booby traps. The result of this conference was a draft of a document limiting or abolishing certain weapons, including land mines. A second session was organized in 1980 in which eighty-five nations participated. Following this session in 1980, the conference adopted the Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May be Deemed to be Excessively Injurious or have Indiscriminate Effects, commonly known as the “Conventional Weapons Treaty,” on October 10, 1980. The original draft protocol on land mines was then integrated into this Conventional Weapons Convention as its Protocol on Prohibitions or Restrictions in the Use of Mines, Booby Traps, Other Devices, commonly known as “Protocol II.”

The goal of the drafters of Protocol II was to limit the use of anti-personnel land mines deployed against civilian populations. Protocol II falls short of a complete ban on the use of anti-
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personnel land mines. Rather, it places certain restrictions on how these anti-personnel mines may be used.

Article three of Protocol II is the general section aimed directly at protecting civilians. Specifically, article three, section two prohibits offensive and defensive deployment of all mines against both the general civilian population and individual civilians. The rest of the article sets up a balancing test to determine if the human casualties resulting from deployed mines outweigh the military advantage.

The other provisions of Protocol II follow the pattern of protecting civilian populations as demonstrated by article three. Article four prohibits the use of land mines in areas of civilian concentrations except when those areas contain real military targets. Articles five and six prohibit the use of so-called remotely delivered mines, again except in areas which contain military targets. Finally, articles seven and nine require the marking and recording of minefields and the sharing of such information once the hostility or fighting has ceased.

Although a worthy attempt, Protocol II has often been characterized as a dismal failure as a solution to the land mine problem. The biggest criticism of it is that it really only regulated the placement of land mines rather than prohibiting their use and

90. See id.
91. See id.
92. Smith, supra note 46, at 526. Protocol II does not define "civilian" but rather the definition is taken from Protocol I written in 1977. Id. "Civilians" were defined as "persons not members of armed forces or organized armed groups." Id.
93. See ARMS PROJECT, supra note 41, at 291; see also McCall, supra note 65, at 253 (citing Protocol II, art. 3(4) and stating that belligerent parties engaging in mine warfare are expected to take "all feasible precautions" under humanitarian and military considerations to protect civilians from mine warfare).
94. See ARMS PROJECT, supra note 41, at 286. Article 3(3) prohibits the placement of mines:
(a) which are not on or directed at a military object; or,
(b) which employ a method of means of delivery which cannot be directed at a specific military objective; or,
(c) which may be expected to cause incidental loss of civilian life, injury to civilians, damage to civilian objects or a combination thereof, which would be excessive in relation to the concrete and direct military advantage anticipated.
Id.
95. See McCall, supra note 65, at 254.
96. See id.
97. See id. at 256 (finding specifically that article nine calls for complete cooperation between belligerents once the fighting has ceased).
98. See ARMS PROJECT, supra note 41, at 263.
Due to the delayed-action in which mines operate, under Protocol II, it is perfectly lawful to place mines directed at a military object even though they may cause indiscriminate injuries to civilians years later. Other criticisms include: Protocol II's lack of enforcement mechanisms; the international community's failure to both rectify and enforce this Agreement; military commanders' abuse of discretion in deciding what is or is not a military objective; and a lack of clear examples and consistent definitions.

Protocol II has failed in its chief objective to protect civilians from the horrors brought by the indiscriminate use of land mines. Land mines are still injuring civilians. Little adherence has been given to the military objective requirement even when harm to civilians outweighs any possible military gain. Furthermore, since Protocol II became effective, the development of new technologies in land mines has made it easier to deploy undetectable land mines in civilian populations. Finally, the statistics representing the number of civilian casualties since 1983 clearly demonstrate that this agreement has not been very successful.

One of the hot debates at the conference on The Conventional Weapons Treaty was whether Protocol II should just seek restrictions on the use of land mines or a categorical total ban. Arguments were made for a total ban. However, despite the arguments put forward for a total ban, a proposal for placing restrictions on the use won out. The conference delegates concluded that the harmful and indiscriminate effects of land mines on civilians could be adequately controlled by regulations on mine

99. See id. at 290 (contrasting Protocol I which banned attacks of mines to Protocol II, which under Article 3(3)(b) only prohibits the placement of mines).
100. See id.
101. See McCall, supra note 65, at 260.
102. See Smith, supra note 46, at 530-31; see also McCall, supra note 65, at 252.
103. See Smith, supra note 46, at 530-31.
104. See id. at 531.
105. See id.
106. See ARMS PROJECT, supra note 41, at 263.
107. Id. at 275-76.
108. Id. at 275-76 (stating that arguments were put forward that a flat ban would be precise, that partial restrictions would be ineffective particularly where too much discretion would be given to field commanders and that a total ban would be much easier to enforce and implement).
109. Id. at 277.
deployment. However, as noted above, these restrictions proved ineffective. Thus, it only seems realistic that the next major international attempt to deal with this world-wide problem would involve a total ban on the use of anti-personnel mines.

III. The Ottawa Process

On September 17, 1997, after a two week long conference in Oslo, Norway, close to one hundred nations agreed on a Treaty to ban the use of anti-personnel land mines. This Treaty is a result of an eleven-month long process, initiated in Canada, which has now become known as the Ottawa Process. This Treaty represents the first intentional agreement to totally ban the use of anti-personnel mines.

The Treaty agreed to in Oslo has come to fruition largely as the result of the hard work and perseverance of those who have dedicated themselves to defeating this world wide killer of innocent civilians. One of the most famous supporters of this effort was the late Princess Diana. She took up the cause in January of 1997. Diana personally walked through a minefield in Angola and consoled the victims of land mines in Bosnia. Her efforts were instrumental in publicizing and obtaining world-wide recognition of this issue, which also undoubtedly vaulted the Ottawa Process to the point it has now reached in the form of an official Treaty.

The official name of the agreement coming out of the Oslo Conference is the “Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction.” The major provision of this Agreement is Article one, entitled “General Obligations,” which prohibits the use, development, production and stockpiling of anti-personnel

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110.  See id.
111.  ARMS PROJECT, supra note 41, at 263.
112.  See N.Y. TIMES, supra note 7, at A34.
116.  Id. (stating the Princess Diana’s recognition of this cause immediately sent it to the top of the charts in the world’s consciousness).
117.  Id.
118.  Id.
119.  See Convention, supra note 8.
mines. Article two is a definition section. Article three creates a small exception for the use and transfer of mines for the training of those involved in mine detection and clearance. Articles four and five govern both the destruction of existing and stockpiled anti-personnel mines. Article eight addresses one of the major deficiencies of Protocol II, by regulating the facilitation and clarification of compliance for the entire Treaty. Article eleven requires a meeting of the parties to the Treaty and article twelve provides for the meeting of a Review Conference five years after the Treaty becomes official. Finally, article fifteen lists the times and places that nations will be given the opportunity to officially sign this Treaty.

IV. The United States Officially Decides Not to Sign the Treaty

The United States has decided not to add its name to the Treaty signed in Oslo. President Clinton decided to join the Ottawa process in August. A United States delegation of negotiators was sent to Oslo, and they worked hard to get certain

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120. See id. Article I specifically stated that:
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 provision of the Convention.

See id.

121. See id.

122. Id. at 3. Article three states in part:
1. Notwithstanding the general obligations under Article I, the retention and 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 purpose.

See Convention, supra note 8.

123. See Convention, supra note 8.

124. Id.

125. Id.

126. Id.


128. See In Questionable Company, supra note 113, at B8 (announcing that President Clinton's decision to join the Ottawa Process so late severely hurt the United States' position).
United States' exceptions accepted by the nations attending. During the second week at Oslo, the delegates from the United States actually gained a one day delay, but ultimately they could not budge the drafters.

The United States sought five basic exceptions to the current draft of the Treaty agreed to in Oslo by close to one hundred nations. First, and probably most important, the United States wants to continue its use of anti-personnel land mines that are deployed along the DMZ in Korea. Also, the United States wants "smart" self-destructing anti-personnel land mines permitted and a deferral period of roughly nine years to allow technological advancements to be made which could possibly serve as substitutes to land mines. Finally, the United States has asked for improvement of the verification measures of the treaty and an addition of a "supreme neutral interest" clause as a criteria for dropping out of the treaty at war times.

President Clinton has insisted that he cannot in good consciousness sign the treaty as it is written. He is concerned that if the United States gives up its anti-personnel mines in Korea, and its anti-tank mines, our soldiers stationed in Korea and around the world will be placed in jeopardy. The President has asked for an adequate transition period so that the United States can gradually phase out its use of anti-personnel mines by devising alternate defense mechanisms.

The United States' exceptions were ultimately rejected by the other delegates in Oslo. The nations agreed that granting the exception would undermine the objectives and goals of the Ottawa Process, which include a total ban on the use, production and

129. See Clinton, supra note 127 (noting that President Clinton praised his team of negotiators in Oslo who worked tirelessly to reach an agreement that the United States could sign).
132. See id.
133. See id.
135. See Clinton, supra note 127 (stating that the President, as commander-in-chief, will not send our soldiers out to defend this country without doing everything he can to make these soldiers as secure as possible).
136. See id.
stockpiling of anti-personnel land mines. Also, the delegates were concerned that if they granted the United States' exceptions, other nations, possibly Russia and China, would also seek their own exceptions. Therefore, the United States' proposals were rejected in Oslo.

President Clinton has reiterated that the proposals the United States made in Oslo are still on the bargaining table. For now, the President has instructed the Defense Department to devise alternatives to anti-personnel land mines. Ultimately, however, it appears the world will move on and sign this agreement leaving the United States behind.

V. Analysis of the United States' Decision Not to Sign the Oslo Treaty

The United States decided not to sign the Oslo Treaty for several reasons. This part of the Comment will address the justifications for and the attacks on those specific reasons. Highlighting this list are the “smart” mines issue, the Korean Peninsula issue and the anti-tank mine issue. Furthermore, this part will analyze how this decision not to sign may effect other countries’ decisions to sign and thus the treaty’s overall effectiveness. Finally, this part will evaluate the military necessity of having anti-personnel mines in the United States' arsenal.

A. “Smart” Mines

The United States wants to continue to use its “smart” anti-personnel and anti-tank mines. These mines, after being activated, are designed to self-destruct within a matter of hours or days. Thus, the United States military personnel have termed these self-destructive mines “smart” mines because essentially they act on their own after being activated.

138. See Burt, supra note 130.
139. See id.
141. See Clinton, supra note 127 (stating that the United States remains ready to sign a treaty that meets or fundamental and unique security requirements).
142. See id.
144. See U.S. to Reject, supra note 131.
145. See Kitfield, supra note 143, at 1.
146. See id.
The Defense Department asserts that “smart mines” have close to a ninety-nine percent reliability rate.\textsuperscript{147} Because they claim that these mines are so effective in self-destructing within hours or days after being activated, the Defense Department argues that these mines are not deadly to non-combatants (civilians) who would walk on battlefields days after the fighting was over.\textsuperscript{148} The Pentagon has long lobbied that due to the success rate of “smart” mines in the field, the United States is not responsible for any of the land mine fatalities that occur annually.\textsuperscript{149} Thus, it is argued that these mines are not a threat to non-combatants, so the United States should be able to keep these weapons in its arsenal.

Those who oppose the United States’ decision not to sign the Oslo Treaty are not convinced that the “smart” mines are as successful as the Defense Department claims. In fact, according to some United States military studies, the “smart” mines have as high as a twenty percent failure rate.\textsuperscript{150} These studies indicate that these mines do not self-destruct automatically as they were designed to do.\textsuperscript{151} In their one test situation in Desert Storm, the “smart” mines did not perform as well as the Defense Department has claimed.\textsuperscript{152} Therefore, it is argued that these mines may not deactivate and thus will pose a threat to non-combatants who later cross the battlefields.\textsuperscript{153}

Others who oppose this exception make moral arguments against the Defense Department’s reports and the Pentagon’s insistence on keeping “smart” mines in the United States military arsenal. In particular, Nebraska Senator Chuck Hagel, who was wounded twice by land mines in Vietnam, argues that “mines are mines,” and that such weapons are not completely reliable.\textsuperscript{154} because technology is not foolproof.\textsuperscript{155} Another Senator opposed

\textsuperscript{147} Id.
\textsuperscript{148} Id.
\textsuperscript{149} Id.
\textsuperscript{151} See Kitfield, supra note 143.
\textsuperscript{153} See Kitfield, supra note 143.
\textsuperscript{155} See id. (stating that Hagel has held several conversations with military advisors and is still convinced that land mines are not necessary for the United States to accomplish its military objectives).
to this exception and a leader worldwide in the push to ban all anti-personnel mines, Patrick Leahy argues that “smart” mines are not smart enough to tell the difference between a soldier and a child.156 Thus, the mines present an equal risk to non-combatants and soldiers, according to the argument.157

B. Korean Peninsula

The United States’ decision not to sign the Oslo Treaty was largely predicated on the inability of the delegates to get an exception for the continued use of anti-personnel and anti-tank mines along the demilitarized zone (“DMZ”) in Korea.158 The United States has deployed many land mines along the DMZ as a defense mechanism against a possible North Korean invasion.159 The goal of the mine deployment is to slow the advance of a North Korean attack so that the United States can organize and assemble an adequate defense of South Korea.160

The Pentagon maintains that the use of mines along the DMZ in Korea creates a unique situation where non-combatants are not at any potential risk.161 The DMZ in Korea differs from other mined areas and countries because the DMZ has been clearly defined.162 Civilians have been completely barred from the DMZ.163 There are no villages along the DMZ.164 Therefore, it is argued by the Pentagon that danger of civilian casualties due to the mine deployment along the DMZ is almost nil.165

It is also argued that mine deployment along the DMZ is necessary because of the instability of the North Korean government which makes a threat of renewed aggression ever-present in Korea.166 The current Pyongyang regime, according to some, remains determined to launch an attack against South Korea and

157. See id.
159. See id.
160. See Clinton, supra note 127.
162. See id.; see also Clinton, supra note 127 (announcing that the President feels as if the DMZ represents a place like no other in the world).
163. Banning Land Mines, supra note 161, at 1; see also Clinton, supra note 126.
164. Clinton, supra note 126.
165. See id.
its allies.\textsuperscript{167} It will only be possible to remove our mines from the DMZ when the North Koreans renounce their ongoing policy of provocation and it is evident that they are not a threat to attack South Korea.\textsuperscript{168} Furthermore, the President argues that it is now, when the North Koreans feel threatened and most helpless, that they are most dangerous.\textsuperscript{169}

The mines along the DMZ are seen as a military necessity to slow down a possible North Korean invasion.\textsuperscript{170} The North Korean army, one million strong, is only twenty-seven miles away from Seoul.\textsuperscript{171} In the event of an attack, the North's overwhelming numerical advantage can only be countered by the United States if we can slow down the North Korean advance, call in reinforcements and adequately organize a defense.\textsuperscript{172} Thus, these mines are crucial to a successful defense.

The strongest argument for the Korean Peninsula exception is the protection of the 37,000 American troops that serve in South Korea.\textsuperscript{173} These troops serve under the direct mandate of the international community.\textsuperscript{174} Therefore, because our troops are needed in Korea to help preserve the peace, it is a strong argument that the United States should do all that is possible to ensure the safety of these troops.\textsuperscript{175}

Those who oppose the United States decision not to sign the Oslo Treaty do not view North Korea as this ticking bomb just waiting to cross the DMZ and attack South Korea.\textsuperscript{176} It is argued that North Korea is a country that is falling apart.\textsuperscript{177} They have trouble just feeding their people.\textsuperscript{178} North Korea is in such bad shape that it poses no real military threat.\textsuperscript{179} Thus, when the

\textsuperscript{167} Id.
\textsuperscript{168} Id.
\textsuperscript{169} Clinton, supra note 127.
\textsuperscript{170} See Banning Land Mines, supra note 161.
\textsuperscript{171} Clinton, supra note 127.
\textsuperscript{172} Id.
\textsuperscript{173} Id. (stating that the President will not send United States soldiers into areas of potential conflict without first taking every precaution to ensure their safety).
\textsuperscript{174} Id.
\textsuperscript{175} Id.
\textsuperscript{177} Jeff Johnson, Land Mines and North Korea, CHRISTIAN SCIENCE MONITOR, Sept. 18, 1997, at 20.
\textsuperscript{178} Id.
\textsuperscript{179} Leahy, supra note 176 (noting that the Pentagon has even been internally divided as to some of the arguments it has made to the White House regarding the
Pentagon analyzes the potential losses in a North Korean invasion, it is argued that they should also factor in the likelihood that the North Koreans could or would invade at all. Given the realities of the current state of North Korea, the likelihood is essentially zero.

Senator Leahy argues that anti-personnel and anti-tank mines are not a military necessity along the DMZ. Those who argue the mines are a necessity in slowing the advance of the North Koreans, ignore the conclusions of many Pentagon analysts who have found that a North Korean invasion would be destroyed, with or without anti-personnel land mines, before it could possibly travel down narrow, pre-targeted mountain passes to Seoul. The United States does not need these mines to defend against a possible North Korean invasion.

The effectiveness of the mines along the DMZ is also questioned and attacked by those that oppose the United States' decision not to sign the Oslo Treaty. They argue that we should look back to the Korean War and analyze the ineffectiveness of the United States mines during that conflict. In fact, excerpts from recently-released Army studies show that United States troops in Korea were killed by their own defensive mine fields. The mines planted near Seoul in 1951 did nothing to deter the Chinese, who cleared the mine fields and marched on with a "human wave" of soldiers. Furthermore, when the

necessity of mine deployment in Korea).

180. See Johnson, supra note 177.
181. Id. (arguing that for no actual benefit, but just to flex the military muscle, the Pentagon is pressuring the government into letting a historical opportunity to ban all land mines pass).
182. Leahy, supra note 176, at S9780. President Clinton has called Senator Patrick Leahy from Vermont a genuine worldwide leader in the land mine reform effort, who is recognized around the world for his efforts to ban anti-personnel land mines. See Clinton, supra note 127.
183. See Leahy, supra note 176, at S9780 (announcing that if anti-personnel mines are going to determine the fate of South Korea, they ought to surrender).
184. Id. (finding additionally that the current Oslo Treaty allows for a twelve-year grace period for removing existing minefields such as in Korea, a fact that some in the administration not even aware of when they were pressuring the President into not signing).
185. See Fransden, supra note 152.
186. See id.
187. Otto Kreisher, Old Army Report Says U.S. Mines Deadlier to GIs Than to Enemy, SAN DIEGO UNION TRIB., July 30, 1997, at A-10 (finding that this study was released by the anti-mine coalition, which includes Human Rights Watch and the Vietnam Veterans of America Foundation).
188. Fransden, supra note 152.
United States troops fought the Chinese back and retook Seoul, they were often slowed by those same defensive mines.\textsuperscript{189} Thus, the implication is that the North Koreans could possibly clear our mine fields the same way the Chinese did some forty years ago.\textsuperscript{190} Moreover, if the United States fought the North Koreans back to the thirty-ninth parallel, our soldiers may be slowed and some suffer the same fate as those who were killed by our mines in the Korean War.\textsuperscript{191} Those who oppose the decision not to sign the treaty argue that this scenario indicates that the effectiveness of our mines along the DMZ would be limited.\textsuperscript{192}

The ability of the South Koreans to make their own defense is cited as another reason why mines along the DMZ are not a military necessity.\textsuperscript{193} South Korea has a better trained and better equipped army than its North Korean counterpart.\textsuperscript{194} Also, the South Koreans are technologically advanced and they are better motivated than the North Koreans.\textsuperscript{195} Furthermore, the South Koreans are supported by the United States, which is considered the most powerful nation on the Earth.\textsuperscript{196}

The opponents of the Korean exception also use evidence of existing alternatives in the United States arsenal that would make mines along the DMZ replaceable.\textsuperscript{197} A Pentagon report released in May of 1997 stated that effective alternatives to the use of antipersonnel mines should be feasible by using a combination of current and future technologies, combat forces and military doctrine.\textsuperscript{198} The report uses Korea as an example.\textsuperscript{199} It states that the mines in Korea could be replaced by the use of the Multiple Rocket System, or other use of new technologies, "whose ability to precisely locate targets lessens the need to rely on..."
indiscriminate weapons such as land mines\textsuperscript{200}. Thus, unlike the alternatives the President has sought to be in place by the year 2006, it is argued that existing technological military weapons could serve as feasible alternatives to the use of anti-personnel and anti-tank mines along the DMZ on the Korean peninsula\textsuperscript{201}.

C. Anti-Tank Issue

The Oslo Treaty contains an explicit exception for anti-tank mines\textsuperscript{202}. However, this exception does not cover the United States' anti-tank mine systems because the United States' system includes the use of anti-personnel mines\textsuperscript{203}. Thus, the United States has kept the anti-tank system off of the bargaining table and has insisted that this system be granted an exception before signing the Oslo Treaty\textsuperscript{204}. When the Oslo countries would not agree to granting this exception, the United States delegates considered it a deal-breaker\textsuperscript{205}.

The changes in modern warfare have necessitated the United States insistence on its continued use of anti-tank mine systems\textsuperscript{206}. The United States' continuing reliance on these systems is clearly obvious by observing training exercises at the Army's National Training Center (NTC) in California's Mojave Desert\textsuperscript{207}. The military's goal is to become better equipped in fighting a modern war that requires striking quickly and flexibility\textsuperscript{208}. A major tool in the military's strategy is the use of rapidly scatterable anti-tank mines that are delivered by artillery shells or cluster bombs\textsuperscript{209}.

\begin{thebibliography}{99}
\bibitem{200} Id.
\bibitem{201} See Isenburg, \textit{supra} note 197, at 19.
\bibitem{202} Convention, \textit{supra} note 8; see also Clinton, \textit{supra} note 127.
\bibitem{203} See Kitfield, \textit{supra} note 143.
\bibitem{204} Id. (finding that although President Clinton has given the Pentagon until the year 2003 to find alternatives for anti-personnel mines, with an exception for Korea to the year 2006, he has stood firm on continuing to use the anti-tank mine systems).\bibitem{205} Id. When the United States' delegates stance on the anti-tank/anti-personnel mine issue was rejected by the delegates in Oslo the President was faced with a treaty that all six members of the Joint Chiefs of Staff opposed. \textit{Id.}\bibitem{206} See \textit{id.} at 3.
\bibitem{207} Id. (stating that the evidence that mines are vital to the United States's military is only more obvious in Korea than at the National Training Center).\bibitem{208} See Kitfield, \textit{supra} note 143. In nearly every scenario of mock combat between armed forces at the NTC, the emphasis remains on what the military calls "shaping the battlefield." \textit{Id.}\bibitem{209} Id.
\end{thebibliography}
Thus, the military sees the anti-tank mine system as a necessity to successfully fighting on the modern battlefield.\textsuperscript{210} Downsizing and other changes in the United States military since the end of the Cold War have greatly magnified the Army's need to use rapidly deployable anti-tank systems.\textsuperscript{211} Now, when controversies arise worldwide, the military must rapidly deploy lighter forces.\textsuperscript{212} The anti-tank mine systems have become an integral part to supporting these lighter forces which have increased responsibilities in the new United States military strategy.\textsuperscript{213}

Senator Leahy argues that if the use of anti-personnel mines near anti-tank mines prevents the United States from signing the Oslo Treaty, the United States should solve this problem.\textsuperscript{214} The United States has been lagging on developing a new anti-tank system that could be used effectively without the use of anti-personnel mines.\textsuperscript{215} The Pentagon should invest time and resources to solving this problem, which compared to the United States ability to lead by example on this issue seems quite small.\textsuperscript{216} According to Senator Leahy, the world both wants and needs the United States leadership.\textsuperscript{217}

D. Possible Effects of the United States Decision Not to Sign the Treaty

The United States is the world's greatest democracy and has historically been a leading force in significant humanitarian law treaties and arms control efforts worldwide.\textsuperscript{218} Our power, influence and moral authority remain unmatched.\textsuperscript{219} The chemical weapons treaty, for instance, would not exist had the United States not taken the initiative and supported this Agreement.\textsuperscript{220} So, the issue becomes whether the United States decision not to

\begin{itemize}
  \item[210.] See id.
  \item[211.] See id.
  \item[212.] Kitfield, \textit{supra} note 154. The number of contingency deployments the Army has planned has risen 300 percent since 1989. \textit{Id}.
  \item[213.] \textit{Id}.
  \item[214.] Leahy, \textit{supra} note 176, at S9780.
  \item[215.] See id.
  \item[216.] See id. Senator Leahy often argues that the United States is in a position to lead others by example, and by not signing the Oslo Treaty we make it an easy excuse for other nations not to come on board as well. \textit{Id}.
  \item[217.] \textit{Id}.
  \item[218.] \textit{Id}.
  \item[219.] See Leahy, \textit{supra} note 176, at S9780.
  \item[220.] See id. (noting that the nuclear test ban treaty would not exist today if it was not for the United States leadership).
\end{itemize}
sign the Oslo Treaty will be a significant deterrent to the overall effectiveness of this treaty?

The President makes the argument that until the world can get the major producers of land mines to stop making, selling and using them, the absence of the United States as a signatory of the Oslo Treaty will remain largely irrelevant. Countries such as China, Iraq, Iran and North Korea are all busy merchants of mines and all seem committed to opposing any ban on anti-personnel mines. Past negotiating attempts with these countries during the United Nations sponsored arms control negotiation “Conference on Disarmament” have proven unsuccessful on the land mine issue. Furthermore, because these exporters remain high on the list of potential United States adversaries, it increases the likelihood that the United States Army could be at a disadvantage in future conflicts. Thus, the effectiveness of the Oslo Treaty should not center around the United States decision not to sign, but rather on the major exporters and their decisions not to sign.

The President further argues that the United States has done its fair share on the land mine issue and will continue to be a leader on this issue, even if we do not sign the Oslo Treaty. The United States has unilaterally stopped producing, selling and using land mines. We have destroyed a million and a half land mines worldwide. Thus, the United States has made a commitment to the land mine issue and has plans to continue its efforts in helping to cope with this worldwide crisis.

Those who oppose the United States decision not to sign the Oslo Treaty argue that until the United States does agree to sign, this treaty will never come even remotely close to being a worldwide ban. Senator Leahy argues that “there is simply no

221. Clinton, supra note 127.
222. See George Will, Parchment and Pacification, A Ban on Anti-Personnel Land Mines May be the Next Bad Idea Whose Time Has Come, NEWSWEEK, July 21, 1997, at 80.
223. Kitfield, supra note 143.
224. Id. (stating that American military leaders argue that because the United States has troops in hot zones such as Bosnia, the Persian Gulf and Korea, the United States has special military responsibilities and needs).
225. See Will, supra note 222, at 80.
226. See Clinton, supra note 127.
227. Id.
228. Clinton, supra note 127. The President also points out that the United States has plans to destroy another million and a half by 1999. Id.
229. See generally id.
230. See, e.g., Leahy, supra note 176, at 9778.
substitute for the credibility and influence of the United States to bring reluctant nations on board." Senator Hagel adds that by signing this Treaty the United States will place itself on the side of the moral high ground, and from this side we will be in a position to influence other nations. The United States needs to provide moral leadership internationally on this issue. Our indecision and non-support evidenced by not signing this Treaty will surely undermine the long effort to reach a total ban.

Senator Leahy argues that the United States decision not to support the treaty will affect the overall enforcement of the treaty. We have in the past been a leader on enforcing international treaties making sure that violators are caught and punished. Thus, the United States, as a world superpower, should seize this opportunity to lead the world on the land mine problem that needlessly plagues so many countries worldwide.

E. Land Mines as a Military Necessity

On July 19, 1997, the anti-mine coalition released excerpts from a fifteen volume 1972 Army report in an attempt to persuade President Clinton to sign-on to the Ottawa Process. These excerpts revealed provocative results from the United States military use of mines during the Korea and Vietnam conflicts. The statistics released tend to undermine the Pentagon's insistence that mines are a military necessity.

The Pentagon contends that this report "went back and it looked at events that happened thirty years ago." Authorities insist that the United States has moved away from deploying land

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231. Id.
232. Fransden, supra note 154.
233. See id.
235. Leahy, supra note 176, at S9778.
236. Id.
237. See id. at S9780 (emphasizing that what the United States actually did in Oslo was to say that we are the most powerful Nation on the earth, but we will not give up our anti-personnel mines).
238. Kreisher, supra note 187, at A-10; see also Fransden, supra note 152. The report is entitled, "In Its Own Words: The U.S. Army and Antipersonnel Mines in the Korea and Vietnam Wars." Id.
239. See Kreisher, supra note 187, at A-10.
240. See Fransden, supra note 152.
mines that are a threat to its own soldiers. Now, the military is using "smart" mines that deactivate or destroy themselves after being activated. Thus, the hazards our mines created in the past for our soldiers no longer remain a problem, according to the Pentagon.

The excerpts from the 1972 Army report reveal statistics that are startling and demonstrate that our mine use in Korea and Vietnam was not very successful. In both conflicts, thousands of American soldiers were killed by United States mines. In fact, about one-third of all United States casualties in Vietnam were caused by mines or booby traps, and ninety percent of these mines had American components. Also, in Vietnam the North Vietnamese routinely raided United States minefields and in one instance the Viet Cong lifted 10,000 U.S.-made M-16 mines.

Those who oppose the deployment of anti-personnel mines argue against their necessity in the defense of our troops. The mines are likely to inflict a "blow-back" effect harming our own soldiers. Thus, they argue that because these mines serve no real useful military advantage, the United States should sign the Oslo Treaty and support a Treaty that would protect innocent civilians worldwide.

F. Final Analysis

When a Treaty was drafted and agreed upon by close to one-hundred nations on September 18, 1997, in Oslo, Norway, President Clinton was faced with a difficult task of deciding if the United States should sign this Treaty. On one side, President Clinton was bombarded with arguments by the Pentagon attempting to persuade him not to sign the Treaty, thus leaving anti-personnel

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242. Id.
243. See id.
244. See Fransden, supra note 152.
245. See id.
246. See id. Frank Gaffney, a former Reagan administration defense official who founded the Center for Security Policy, clearly admits that Americans have been killed in past conflicts by American-made land mines, but still contends a ban would result in more casualties. Id.
247. Id.
248. Id.
249. Isenburg, supra note 197, at 19.
250. Id.
251. See, e.g., id.
land mines intact in the United States arsenal. On the other side was President Clinton's own promise that he would back land mine reform and possibly the fate of those less powerful nations that have to face the land mine crisis. Ultimately, President Clinton made this difficult decision and sided with his military advisors agreeing not to sign the Oslo Treaty.

The President may have been able to avoid the United States' current predicament by signing onto the Ottawa Process sooner. Unfortunately, the President had been lagging behind on this issue from the start. When the President finally did send negotiators to Oslo, it proved much too late. When the negotiators arrived in Oslo, they were saddled by demands that had little chances of success and very little flexibility with which to negotiate. It was this lack of a good faith effort from the start that ultimately ended with the United States on the sidelines while the rest of the world agreed to ban all anti-personnel land mines.

1. The Main Issues—The President, in his news conference on his decision not to sign the Treaty, focused on both the anti-tank issue and the Korean Peninsula issue. Thus, it appears that these were the main roadblocks that kept the United States from signing the Treaty.

a. Korean Peninsula Issue—It is admirable that the President is not willing to sign a Treaty that could endanger the 37,000 United States troops that are serving overseas. After all, he is the commander-in-chief of our military. However, if the President is sincere about developing alternative defense mechanisms for the Korean Peninsula by 2006, then this issue may not have been part of the deal-breaker in Oslo. The Oslo Treaty effectively grants a ten year grace period for removing existing minefields.

254. See, e.g., In Questionable Company, supra note 113, at B8.
255. See Sanity Prevails, supra note 253, at A20 (noting that although President Clinton has been very fond of multilateral agreements in the past, he listened to the unanimous chorus of his military advisors).
256. See Leahey, supra note 176, at S9779.
257. Id.
258. Id.
259. Clinton, supra note 127.
261. See Clinton, supra note 127, at 3.
Thus, by the year 2006 when, according to the President’s directive, the United States should have developed alternatives to mine use in Korea, we could remove our anti-personnel land mines on the Korean Peninsula\(^{263}\) in full compliance with the provisions of the Treaty. Therefore, this issue is manageable under the Treaty’s language and should not have been a roadblock to the United States signature.

\textit{b. Anti-Tank Issue}—The Pentagon and military advisors have insisted that our anti-tank mine systems, which include the use of anti-personnel mines, are a necessity to fighting on the modern day battlefield. Admittedly, this was a tough issue facing the President. However, if the President is really sincere in finding alternatives to all anti-personnel land mine use\(^{264}\) then this issue should not have been a deal breaker in Oslo either. The President has called for alternatives to be in place by 2003 for all United States anti-personnel land mine use.\(^{265}\) Thus, in five years we will have an alternative to our anti-tank systems using anti-personnel mines. So, how critical does this issue appear? The United States, a very technologically advanced nation, should be able to devise an alternative to the use of anti-personnel mines in these systems. Furthermore, the Oslo Treaty still permits the use of anti-tank mines, just not with anti-personnel mines.\(^{266}\)

\textit{2. A Plea to Sign}—We are facing a world-wide land mine crisis. The statistics that show the yearly fatalities and injuries do not lie.\(^{267}\) So, what does one do when faced with such an enormous problem? One takes the initiative and finds a solution. Close to one-hundred nations have done this, but unfortunately, the world’s most influential nation has not.\(^{268}\) However, it is not too late.

\begin{itemize}
\item destroy 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 the Convention for that State Party.” See \textit{id.}
\item See Clinton, \textit{supra} note 127, at 3.
\item See \textit{id.}
\item \textit{Id.}
\item Convention, \textit{supra} note 8.
\item \textit{Id.}
\end{itemize}

\begin{itemize}
\item Anti-personnel land mines have become the single largest source of war-related injury on Earth, killing about 800 people a month and injuring another 1200. Adele Simmons, \textit{Stop the Haggling Over Land Mines}, CHI. TRIB., Sept. 18, 1997, at 25.
\item \textit{Id.}
\end{itemize}
President Clinton should re-think his decision not to sign the Oslo Treaty. In doing so, he should consider the reality that this Treaty, without United States support, may become a dismal failure. The United States has been given an incredible opportunity to lead the rest of the world towards cooperatively solving one of the world’s greatest problems. The United States should help solve this crisis, not impede the solution. Nothing short of this should be expected from the world’s leading democracy. We should fully join the Ottawa Process, sign the Oslo Treaty and lead the rest of the world into a safer twenty-first century.

Craig S. Sharnetzka

269. See Leahy, supra note 176, at S9780.