

THE EVOLVING ARMS CONTROL AGENDA

Implications of the Role of NGOs in Banning Antipersonnel Landmines

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No other issue in recent times has mobilized such a broad and diverse coalition of countries, governments and nongovernmental organizations (NGOs). Much of this momentum has been the result of the tremendous efforts made by NGOs to advance the cause to ban AP mines. Their commitment and dedication have contributed to the emergence of a truly global partnership.

—*Lloyd Axworthy, Minister of Foreign Affairs, Canada*
"AP Mine Ban: Progress Report," February 1997

I. INTRODUCTION

THE twentieth century ended with the entry into force of the Ottawa Treaty to ban antipersonnel landmines.¹ The signing of the treaty was an incredible accomplishment marking, as noted at the time by Canadian Prime Minister Jean Chretien, the "first time, the majority of the nations of the world will agree to ban a weapon which has been in military use by almost every country in the world."² However, it also did not have the support of many major powers, which is contrary to most multilateral disarmament agreements.³ Even as late as 1994, there was a consensus among all states that landmines were legal. In March 1995, Belgium became the first state to pass a domestic law pro-

¹ Ottawa Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction, 1997. Unless noted, all references to landmines refer to antipersonnel landmines and not other forms of landmines, such as antitank mines, antivehicle mines, and sea mines.

² Statement by Canadian Prime Minister Chretien at the signing conference for the Ottawa Convention, December 2, 1997.

³ For further information on the unique features of the Ottawa Convention, see Ken Rutherford, "The Hague and Ottawa Conventions: A Model for Future Weapon Ban Regimes?" *Nonproliferation Review* 6 (Spring–Summer 1999).

viding for a comprehensive landmine ban.⁴ Less than thirty-two months later, on December 2, 1997, Belgium was joined by 122 states in signing the comprehensive ban convention. Currently 138 states have signed the convention, and 101 have ratified it. The convention entered into force on March 1, 1999, becoming the quickest major international agreement ever to enter into force in history.⁵ Academics, diplomats, and NGO representatives called the Ottawa Treaty's genesis and negotiations an innovative model for the future development of international law.⁶ Even the Nobel committee recognized this unique coalition by awarding the International Campaign to Ban Landmines (ICBL) and its coordinator, Jody Williams, the 1997 Nobel Peace Prize, in part for helping create a fresh form of diplomacy.⁷

Plotting the process through which NGOs set the international political agenda to bring certain issues to the fore has important substantive and theoretical implications. Substantively, this article shows how NGOs can play important roles in getting landmine and various other issue areas, such as the environment and human rights, onto the international political agenda.⁸ Furthermore, landmines are a key policy problem, as they cause many injuries and deaths in regional conflicts, hinder postconflict reconstruction, seriously undermine infrastructure, and deny land for civilian use thereby leading to the overuse of existing land.⁹

The article has broader significance for the study of comparative foreign policy in that it may help predict the success or failure of current NGO efforts to address other security issues, such as banning child soldiers, ratifying the international criminal court, and restricting the use of small arms and light weapons. If NGOs indeed play a significant role in getting the international community to address the landmine issue,

⁴ International Campaign to Ban Landmines, "Report on Activities: Review Conference on the Convention on Conventional Weapons," Vienna, Austria (September 25–October 13, 1995), 6.

⁵ International Campaign to Ban Landmines, <http://www.icbl.org>, April 30, 2000.

⁶ Richard Price, "Reversing the Gun Sights: Transnational Civil Society Targets Land Mines," *International Organization* 52 (Summer 1998); and Maxwell A. Cameron, Robert J. Lawson, and Brian W. Tomlin, "To Walk without Fear," and Jody Williams and Stephen D. Goose, "The International Campaign to Ban Landmines," in Cameron, Lawson, and Tomlin, eds., *To Walk without Fear: The Global Movement to Ban Landmines* (Toronto: Oxford University Press, 1998).

⁷ The campaign consists of over fourteen hundred arms-control, development, environmental, humanitarian, human rights, medical, and religious NGOs representing some ninety countries. Liz Bernstein, coordinator, ICBL, letter to *Landmine Monitor 2000* researchers, October 1999.

⁸ Paul J. Nelson, "Deliberation, Leverage or Coercion? The World Bank, NGOs, and Global Environmental Politics," *Journal of Peace Research* 34, no. 4 (1997); William Korey, *NGOs and the Universal Declaration of Human Rights: A Curious Grapevine* (New York: St. Martin's Press, 1998); Paul Wapner, "Politics beyond the State: Environmental Activism and World Civic Politics," *World Politics* 47 (April 1995).

⁹ U.S. Department of State, Bureau of Political-Military Affairs, Office of Humanitarian Demining Programs, *1998 Hidden Killers: The Global Landmine Crisis*, September 1998, pp. 8–9, 11.

an examination of the conditions under which NGOs controlled and initiated the landmine issue on the international political agenda becomes more relevant. By comparison, several scholars, including Margaret E. Keck and Kathryn Sikkink, address agenda setting through norm diffusion facilitated by NGOs. They show how networks of NGOs persuaded governments to address the value of new norms, such as ensuring human rights in Latin America, protecting the environment, and eliminating violence against women.¹⁰ Reflecting this norm creation process, Richard Price's excellent study of the NGO role in the campaign to ban landmines shows how NGOs were able to delegitimize landmine use by relocating authority away from states.¹¹ In these analyses, socialization occurs through intensive norm promotion.¹²

In this article, I focus specifically on the role of NGOs in setting the agenda for the landmine-banning issue on the international political agenda. It makes two interrelated arguments. First, NGOs initiated the landmine ban by placing the issue on the international political agenda resulting in intense media and public attention. The term 'agenda' is defined in this essay as "objects accorded saliency in the media content or in people's consciousness."¹³ Second, NGOs helped articulate and codify the landmines issue into international law by changing how governments perceived the legality of landmines and the effects of landmine use. Addressing both these arguments helps to explain better why the Ottawa Treaty was initiated by NGOs, who in turn helped change state behavior toward landmines. One of the implications is that under certain conditions NGOs contribute to setting the international political agenda, especially legal prohibitions on weapons that cause humanitarian harm, have a dubious military utility, and in turn effect state behavioral changes. In comparison most other major arms control and disarmament treaties, such as the Biological Weapons Convention (BWC), Chemical Weapons Convention (CWC), and Nuclear Weapons Treaty (NPT), are typically negotiated at the behest of major powers, and agenda-setting processes, including the negotiations, do not incorporate NGOs.¹⁴

¹⁰ Margaret E. Keck and Kathryn Sikkink, *Activists beyond Borders: Advocacy in International Politics* (Ithaca, N.Y.: Cornell University Press, 1998).

¹¹ Price (fn. 6).

¹² Kathryn Sikkink, "Transnational Politics, International Relations Theory, and Human Rights," *Political Science and Politics* 31 (September 1998), 519.

¹³ Toshio Takeshita, "Exploring the Media's Roles in Defining Reality: From Issue-Agenda Setting to Attribute-Agenda Setting," in Maxwell McCombs, Donald L. Shaw, and David Weaver, eds., *Communication and Democracy: Exploring the Intellectual Frontiers in Agenda-Setting Theory* (London: Lawrence Erlbaum Associates, 1997), 20.

¹⁴ Rutherford (fn. 3), 38-39, 45.

These arguments address the agency question concerning the role of NGOs in international politics by showing how NGOs instigated governments to address the landmine issue in a particular way, which eventually culminated in international law. In explaining this proposition, the article demonstrates how NGOs affected international legal rules on landmine use by changing the debate from a political to a humanitarian issue, drawing media and public attention to the issue, and ultimately educating states about the limited military utility and dramatic negative humanitarian effects of landmines. This article's tentative conclusion suggests that the landmine case illustrates how NGOs can introduce a norm and translate it into a powerful instrument with lasting influence by initiating an issue and then controlling it on the international political agenda.

While this article examines the NGO role in the agenda-setting process, it does not seek to evaluate the contents or effectiveness of the Ottawa Treaty.¹⁵ Nevertheless, it does briefly examine alternative explanations to the article's main arguments. Part III examines alternative explanations for landmines agenda setting, and Part IV examines alternative theoretical explanations for why the ban was achieved.

Theoretically, the article explicitly demonstrates and explains the process of creating and initiating norms and how they are placed and addressed on the international political agenda. Understanding agenda-setting dynamics is central to understanding the achievement of the landmine ban specifically and contemporary international politics more generally. In the landmine agenda-setting process, noticeable attention is transferred in varying degrees to governments, which, in turn, helps to influence policy. Recent agenda-setting studies show that media coverage can shape how the public thinks about American domestic politics.¹⁶ This article utilizes recent agenda-setting research to explain how and why the landmine issue arrived on the international agenda and attracted state attention.¹⁷ Specifically, it shows that NGO advocacy and policy work helped generate international attention by frequently and prominently featuring landmine victims. It also highlights how working with high profile individuals, NGOs were able to change state conception of landmine use in a very short time.

¹⁵ For an evaluation of the potential effectiveness of the Ottawa Treaty, see Richard Price, "Compliance with International Norms and the Mines Taboo," in Cameron, Lawson, and Tomlin, eds. (fn. 6).

¹⁶ Joseph N. Cappella and Kathleen Hall Jamieson, *Spiral of Cynicism: The Press and the Public Good* (New York: Oxford University Press, 1997); Matthew Robert Kerbel, *Remote and Controlled: Media Politics in a Cynical Age* (Boulder, Colo.: Westview Press, 1995); McCombs, Shaw, and Weaver (fn. 13).

¹⁷ McCombs, Shaw, and Weaver (fn. 13).

The article is divided into two sections. The first focuses on level-one agenda setting, labeled “cognitive agenda setting,” because NGOs brought the landmine issue to international attention. It investigates how NGOs placed the landmine issue on the governmental and public agenda. The second section addresses level-two agenda setting, labeled “norm agenda setting,” because of the NGO role in changing state conception of landmines. It discusses the influence of the particular elements of the landmine issue on the governmental and public agenda. For example, a first-level question might address a statement by governments and the public that landmines are an important issue facing the nation, while a second-level question might look at how governments and the public describe ways of addressing the problem.

Three other important components of agenda setting are also addressed in both sections: framing, schema, and priming. Framing is the selection of elements within a particular issue. These elements are used “to promote a particular problem definition, causal interpretation, moral evaluation, and/or treatment recommendation for the item described.”¹⁸ The thesis is that people will think about an issue in a particular way depending on how that issue is presented. This transference of the salience of attributes is the core of second-level agenda setting, while at the same time it holds some implications for level-one agenda setting. Schema is a concept closely linked to framing, but it focuses more on how people organize their thinking.¹⁹ It reduces complicated information into a manageable number of frames in order to handle and process it.²⁰ Priming is “the process by which the schemas are activated.”²¹ It assumes that frequency, prominence, or features of a stimulus activates previously learned cognitive structures and influences interpretations of an ambiguous stimulus. Its key factors are frequency and intensity of media exposure.

The article also examines neorealist explanations for the ban’s achievement, especially focusing on the strategic interests of signatories versus nonsigners and the behavior of landmine-producing states.²²

¹⁸ R. Entman, *Democracy without Citizens: Media and the Decay of American Politics* (New York: Oxford University Press, 1989), quoted in Salma Ghanem, “Filling in the Tapestry: The Second Level of Agenda Setting,” in McCombs, Shaw, and Weaver (fn. 13), 6.

¹⁹ *Ibid.*, 8.

²⁰ D. Graber, *Mass Media in American Politics*, 4th ed. (Washington, D.C.: Congressional Quarterly Press), quoted in Ghanem (fn. 18), 8.

²¹ J. McLeod, S. Sun, H. Chi, and Z. Pan, “Metaphor and the Media: What Shapes Public Understanding of the ‘War’ against Drugs” (Paper presented at the Association for Education in Journalism and Mass Communication, Minneapolis, Minn., August 1990), quoted in Ghanem (fn. 18), 9.

²² This article does not address neoliberalism because the neoliberals have very little to say about security. Specifically, neoliberal scholars argue that international regimes change state behavior in low

While neorealism can explain why states either did or did not sign the convention, they cannot explain the placement of the landmine-ban issue on the international agenda. According to this approach, states would not have incorporated NGO actions or a ban on a weapon-retaining military utility into its behavioral calculations. This article takes a constructivist approach because it contends that norms are socially constructed and therefore allow for an NGO role in educating and pressuring other international actors and in establishing the landmine-ban issue on the international political agenda. Furthermore, unlike neorealism, this approach allows nonmaterial relationships, such as discourse about agenda setting, to develop among a variety of international actors, including individuals and NGOs. Thus, this article's explanation for the ban is that it resulted from the NGO agenda-setting role in establishing the landmine-ban issue on the international political agenda and in educating and pressuring states to address the issue in a particular way.

II. AGENDA SETTING

A thorough evaluation of the NGO role in creating and establishing the Ottawa Convention is critical to the study of international politics because that role is at the heart of constructivist arguments. A clear understanding of the NGO role in initiating the landmine-ban norm through an agenda-setting framework sheds light on the construction of the norm itself (see Table 1).

LEVEL ONE: COGNITIVE AGENDA SETTING

Level-one agenda setting addresses the NGO role in getting governments and the public to think about landmines as an important issue. This level deals with transferring landmines from the NGO to the international political agenda and specifically with getting governments to think about landmine use as a major international humanitarian problem. Moreover, one of the article's findings is that NGOs helped expedite the enforcement of the convention by condensing negotiations from the usual decades to about fourteen months. The broader argument is that the greater the governmental and public attention created by the NGOs toward a particular issue, the quicker an issue gets on the international political agenda and, most importantly, addressed by states.

political issues, such as economics and the environment. Robert O. Keohane, *After Hegemony: Cooperation and Discord in the World Political Economy* (Princeton: Princeton University Press, 1984), 49–109; Stephen D. Krasner, "Sovereignty, Regimes, and Human Rights," in Volker Rittberger, ed., *Regime Theory and International Relations* (Oxford: Clarendon Press, 1993).

TABLE 1
NGO AGENDA SETTING AND THE LANDMINE ISSUE

<i>Agenda-Setting Components</i>	<i>Level One: Cognitive Agenda Setting</i>	<i>Level Two: Norm Agenda Setting</i>
Framing	landmines as a new issue: getting people to think about landmines as a humanitarian issue	horrible effects and disproportionate consequences
Schema	outrageous landmine statistics	leadership games to control the landmine issue
Priming	landmine victim stories	incoherent arguments among anti-ban states

FRAMING: NEW ISSUE

As a new issue, landmines attracted tremendous international attention. According to one government diplomat central to the treaty negotiations, the international arms control agenda was bare and therefore arms control negotiators were undistracted by the NGO call for a landmine ban.²³ Even critics of the landmine-ban movement credited NGOs with bringing the landmine issue to international attention. One critic writes that “despite its considerable history, little has been recorded about the use of these weapons [landmines],” until they “attracted the attention of the media and humanitarian groups.”²⁴

Compared with other controversial weapons, such as biological and chemical weapons, poison gas, and nuclear weapons, the legality of landmine use remained an obscure issue for governmental policymakers until the early 1990s. For example, according to Lieutenant Colonel Burris M. Carnahan, there was only one U.S. military manual regarding the use of landmines and international humanitarian law by the early 1980s.²⁵ Moreover, most of the literature on the legality of landmines was published after the creation of the ICBL in 1992.

Initial NGO interest in the landmine issue began in the 1970s when the International Committee for the Red Cross (ICRC) determined that some weapons should be prohibited both “by customary and treaty-

²³ Statement made by Mark Gwozdecky, coordinator of the Mine Action Team in the Canadian Department of Foreign Affairs and International Trade, at the Ottawa Process Forum, Ottawa, Canada, on December 5, 1997. Author's notes.

²⁴ Mike Croll, *The History of Landmines* (Barnsley, U.K.: Leo Cooper, 1998), x-xi.

²⁵ U.S. Department of the Air Force, *The Conduct of Armed Conflict and Air Operations*, pamphlet no. 110-31, 1976, quoted in Lieutenant Colonel Burris M. Carnahan, “The Law of Land Mine Warfare: Protocol II to the United Nations Convention on Certain Conventional Weapons,” *Military Law Review* 105 (Summer 1984), 73.

based international humanitarian law because landmines cause superfluous injury and unnecessary suffering (damaging effects disproportionate to the military purpose) and that they are of an indiscriminate nature (no distinction between civilians and combatants).²⁶ These legal discussions will be reviewed at greater length in the next section, but here it suffices to say that the ICRC discussions in the 1970s eventually resulted in minimal international legal restrictions being placed on landmine use through the Landmines Protocol of the 1980 Convention on Conventional Weapons (CCW). This particular protocol was strengthened as the Amended Protocol II adopted at the final CCW Review Conference in Geneva on May 6, 1996, when it became apparent that NGOs had the public will to push through a ban.²⁷ Subsequent to the CCW, landmine use was not a topic of concern for the media, NGOs, or policymakers. There are several proposed reasons why the landmine issue finally attracted international attention in the last decade of the twentieth century; these reasons are discussed below. While reasons are legitimate, this paper argues that the NGO role in getting states to address the landmine problem provides a more comprehensive reason why landmines emerged on the international political agenda.

Introduction to landmines. State militaries traditionally used landmines for defensive purposes, primarily to protect strategic locations or channel enemy forces into specific fire zone areas. Restricted to these particular military uses, landmine casualties were confined primarily to military personnel during combat engagement or related operations. Beginning with the Vietnam War, however, landmines have become more widely used by poorly trained militaries and more offensive in military practice. Many of today's wars are now "long-running, internal, and low intensity, often involving cash starved militaries for whom low-technology, low-cost landmines are a weapon of choice. . . . Consequently, in wars today, mines are frequently placed in areas of high civilian concentration rather than being confined to discrete battlefields of limited size."²⁸ The result has been an increasing level of destructiveness to civilian communities. For example, the top three states with

²⁶ Ariane Sand-Trigo, ICRC Delegation to the UN, letter to the author, March 3, 1997.

²⁷ The Landmines Protocol is attached to the CCW as Protocol II and is officially known as the Protocol on Prohibitions or Restrictions on the Use of Mines, Booby Traps and Other Devices. The two other Protocols were Non-detectable Fragments (Protocol I) and Prohibitions or Restrictions on the Use of Incendiary Weapons (Protocol III). The CCW Review held in Vienna in September 1996 adopted Protocol IV, which called for restrictions on the use of laser weapons, while the landmines protocol was amended at the third and final CCW review held in Geneva. The four protocols are regulated by the provisions of the Weapons Convention.

²⁸ Arms Project of Human Rights Watch and Physicians for Human Rights, *Landmines: A Deadly Legacy* (New York: Human Rights Watch and Physicians for Human Rights, 1993), 9.

landmine-disabled populations are recently emerging from decades of internal conflict that entailed the use of mines by all parties.²⁹ According to the U.S. State Department, 59 to 69 million landmines are currently deployed, making them “one of the most toxic and widespread pollution[s] facing mankind.”³⁰ The State Department finds further that landmines exacerbate regional conflicts, hinder postconflict reconstruction, seriously undermine infrastructure, and deny land-to-civilian use, thereby leading to overuse of existing land.³¹ Additionally each year landmines kill more than twenty-four thousand people, most of whom are civilian.³²

Landmine use among most state professional forces has declined recently.³³ There are exceptions, however, the most notable being the use of landmines by Russia in Chechnya, Dagestan, and Georgia, and by Eritrea in its conflict with Ethiopia.³⁴ During the 1990s, there were also a few cases of landmines being deployed by professional troops in which civilians were purposely targeted. In Bosnia during 1993–94, Bosnian Croatian and Serbian forces used mines to discourage the return of refugees by other ethnic groups, and Serbian forces used them in Kosovo in 1999 to harm returning Kosovar refugees. Nevertheless, many nonstate military forces still rely upon landmines to achieve their objectives. Recent and current internal wars in Afghanistan, Bosnia, Cambodia, Rwanda, Somalia, and Uganda show further that landmines are not being used to conquer the opposing force. Rather the goal is economic and social destabilization or the prevention of the return of refugees. For example, in Afghanistan “guerrilla forces used

²⁹ The U.S. State Department has estimated that Afghanistan, Angola, and Cambodia host the largest numbers of landmines in the world. U.S. Department of State, *1994 Hidden Killers: The Global Landmine Crisis*, pub. no. 10225, December 1994, 1.

³⁰ *1998 Hidden Killers* (fn. 9) 9. In *1994 Hidden Killers* the U.S. Department of State estimated that there were 80 to 110 landmines in sixty-four countries; *1994 Hidden Killers* (fn. 29), v. U.S. Department of State, *1993 Hidden Killers: The Global Problem with Uncleared Landmines*, July 1993, 2.

³¹ *1998 Hidden Killers* (fn. 9), 8–9, 11.

³² International Committee for the Red Cross, *Landmines Must Be Stopped* (Geneva: ICRC, 1998), 16. *1998 Hidden Killers* (fn. 9), 1.

³³ International Campaign to Ban Landmines, *Landmine Monitor Report 1999: Toward a Mine-Free World* (New York: Human Rights Watch, 1999), 3.

³⁴ Chechnya: Olivia Ward, “Empire of Ruin: The Corrupt Russian Army Can’t Think of Giving Up Its Mines,” *New Internationalist* (September 1997), 16–17; and Daniel Williams, “Brutal Retreat from Grozny Led to a Killing Field,” *Washington Post*, February 12, 2000, p. A1, A17. Dagestan: “Islamic Extremists in Dagestan Are Also Using Landmines,” ICBL press release, Geneva, September 13, 1999; and “Russian Troops Clearing Dagestan Rebel-Planted Mines,” FBIS transcribed text, Moscow *Interfax*, no. LD2508105399, August 25, 1999. Georgia: In November 1999, Russian military forces dropped mines in northern Georgia hoping to block potential escape routes of Chechen militants, “Russians Drop Mines in Georgia,” *Washington Post*, November 18, 1999, p. A36. Ethiopia: It should be noted that the Ethiopian defense forces claim not to have used anti-personnel landmines in the conflict. According to the ICBL, “there is no evidence to the contrary.” *Landmine Monitor Report 1999* (fn. 33), 147, 196–97.

mines to force populations off the land and reduce potential support for their opponents,” while in Cambodia the Khmer Rouge used landmines “to destabilize contested areas.”³⁵ Thus these countries host some of the highest concentrations of landmines in the world. It is estimated, for example, that Afghanistan currently hosts between 5 and 7 million landmines while Cambodia hosts between 4 and 6 million.³⁶

Explanations for landmines agenda setting. Currently there are three explanations for landmines agenda setting: terrorism and nonstate actor (NSA) use, technology, and the end of the cold war. Some claim that the initial legal interest in restricting landmine use was driven in part by the U.S. military who wished to limit terrorist access to landmines and other time-delayed weapons, such as booby traps.³⁷ Landmines traditionally were used by state militaries for defensive purposes, primarily to protect strategic locations. In the last few decades, however, landmine use has become more offensive in military practice and destructive in humanitarian cost. The practice has been compounded by landmine proliferation to substate militaries, who use them to create social chaos to bring down states and to target particular groups. While millions of deployed mines “were randomly laid, with limited tactical rationale, and often deployed simply to terrorize and demoralize local populations,” terrorists did not deploy them on United States soil or that of its allies.³⁸ In reality, most current landmines are not used for terrorist purposes but indiscriminately by inadequately trained soldiers or undisciplined militias. The fact that minefield mapping and marking and mine-awareness education are practically nonexistent increases the landmine threat to civilians in these areas.

These facts, however, do not provide a complete answer for why the landmine issue got onto the international political agenda. The Soviets used landmines irresponsibly in Afghanistan in the 1980s and in greater numbers than all the professional militaries in the 1990s. Yet the landmine issue did not generate international attention. Cambodia, moreover, was also the scene of massive landmine deployment in the 1980s, but no international steps were taken to curtail its use. Finally in the early 1990s, state behavior toward landmine use changed when NGOs raised the landmine-ban issue.

³⁵ United Nations Office for the Coordination of Humanitarian Assistance to Afghanistan (UNOCHA), *Mine Action Programme: Afghanistan* (New York: United Nations, 1999), 10. Robert Eaton, Chris Horwood, and Norah Niland, *Cambodia: The Development of Indigenous Mine Action Capabilities*, report to the United Nations Department of Humanitarian Affairs (New York: United Nations, n.d.), 6.

³⁶ *1998 Hidden Killers* (fn. 9), 58; Eaton, Horwood, and Niland (fn. 35), 38.

³⁷ Carnahan (fn. 25), 74.

³⁸ *Landmine Monitor Report 1999* (fn. 33), 14.

The second purported reason why the landmine issue is now an object of international attention is that technological developments have made the acquisition and deployment of landmines much simpler. By purchasing better technology, more states are now able to produce landmines readily. In addition, aerial dispersal instruments, such as airplanes and artillery, can not deploy a greater number of landmines in a shorter time. Some of the more advanced remote-delivery systems can now deploy thousands of landmines in minutes.³⁹ Thus, not only has technology increased both the number of landmines being deployed and the speed of deployment, but it has also spurred more indiscriminate deployment of the mines since accurate recording is not possible with aerial-delivery systems.⁴⁰ Such use, it is claimed, is increasing because many militaries, especially of the United States, fear casualties among their own forces and therefore put greater emphasis on air power.⁴¹ As one American reporter writes, Americans have “placed extraordinary value on preserving lives of our pilots, sometimes at the possible expense of civilians on the ground.”⁴² Therefore we can conclude that in the future, aerially delivered mines will increasingly replace manually deployed mines, especially in those states fearing casualties.

Besides reducing casualties, militaries believe that mines deployed by air in large numbers “have the ability to deploy rapidly and to position a considerable obstacle to enemy movement.”⁴³ During the last few decades, the American military expanded this technology by packaging antipersonnel (AP) and antitank (AT) mines together because studies showed that by sowing AP mines with AT mines significantly slows down enemy minefield breaching and protects the AT mines from enemy lifting.⁴⁴

While the NGOs complained that such packages blur “the already thin line between antitank and antipersonnel systems,” these packages

³⁹ One example is the United Kingdom’s “Ranger” that “can fire 1296 mines in one minute.” Lt. Col. C. E. E. Sloan, *Mine Warfare on Land*, (Washington, D.C.: Brassey’s Defense Publishers, 1986), 38, quoted in Shawn Roberts and Jody Williams, *After the Guns Fall Silent: The Enduring Legacy of Landmines* (Washington, D.C.: Vietnam Veterans of America Foundation 1995), 7. Another example would be the Italian SO-AT system that allows a helicopter to drop 2496 landmines. This is in contrast to minefield laying, which “only a few years ago . . . might have required up to eight hours work by a full company of troops.” Quoted in Carnahan (fn. 25), 79.

⁴⁰ Peter J. Ekberg, “Remotely Delivered Land Mines and International Law,” *Columbia Journal of Transnational Law* 33, no. 1 (1995), 151; Carnahan (fn. 25), 74.

⁴¹ Ekberg (fn. 40), 153.

⁴² Michael Dobbs, “A War-Torn Reporter Reflects,” *Washington Post*, July 11, 1999, B1.

⁴³ Ekberg (fn 40), 156.

⁴⁴ Statement by Captain Michael Doubleday, U.S. Department of Defense, press regular briefing, August 19, 1997.

are not the primary cause of landmine casualties or land denial problems.⁴⁵ Contrary to the claim that technology is the prime mover of the landmine issue, mines deployed aerially are not a significant percentage of currently deployed mines or a cause of landmine victims.⁴⁶ Regardless, the Clinton administration in 1997 still felt public and international pressure regarding U.S. mixed systems, so it attempted to change the definition of the antipersonnel landmines sowed in the mixed systems by reclassifying them as submunitions and antihandling devices for antitank mines.⁴⁷ Again, these mixed systems and other aerially deployed mines are not the main reason for the humanitarian disaster caused by mines. Such technology is therefore not the main explanation for the landmine issue getting on the international political agenda.

A realist explanation for the placement of the landmine issue on the international agenda could be the end of the cold war. Its end has enabled state policymakers to focus on less strategic weapons, such as landmines, and allowed many states to pursue unilateral military policies, sometimes in opposition to the major powers. Realists could assert that the end of the cold war has led to irresponsible behavior by non-major states because they no longer feel beholden to major powers and/or have concern for their security. They would argue that these states are acting foolishly and will eventually be punished for weakening their own security by giving up a weapon that retains a military utility on the battlefield. Kenneth Waltz predicts that a post-cold war multipolar system is more unpredictable than a bipolar system because major powers have less flexibility to balance the system and weaker states have greater flexibility to act irresponsibly concerning their security interests.⁴⁸ According to this neorealist principle, it would have been difficult to achieve the Ottawa Convention because relative gains would have been more important than they are now. In a multipolar world, for example, weaker states fear war less and “all of them can more freely run the risk of suffering a relative loss.”⁴⁹ Thus even though Russia, the United States, and other great powers did not sign the

⁴⁵ *Landmines: A Deadly Legacy* (fn. 28). The “mixed mine” systems are one of the major obstacles to the United States signing the Ottawa Convention.

⁴⁶ The majority of today’s deployed landmines were laid by hand and not delivered aerially. Ekberg claims that remotely delivered landmines are significant contributors to “the landmine crisis.” Ekberg (fn. 40), 149.

⁴⁷ United States Campaign to Ban Landmines, “When Is an Antipersonnel Landmine Not a Mine?—When It Is American,” press release, September 9, 1997.

⁴⁸ Kenneth N. Waltz, “The Origins of War in Neorealist Theory,” in Richard K. Betts, ed., *Conflict after the Cold War: Arguments on Causes of Peace* (Boston: Allyn and Bacon, 1994), 92–95.

⁴⁹ Kenneth N. Waltz, *Theory of International Politics* (New York: McGraw-Hill, 1979), 71.

Ottawa Convention, most of the NATO and former Warsaw Pact allies have signed.⁵⁰

Moreover, NGO representatives themselves argue, "Governments remained largely unaware of the degree of the landmine epidemic until the end of the Cold War. Yet the devastating, long-term consequences of AP mines were becoming all too apparent to those NGOs who were putting prosthetic limbs on victims, removing the detritus of war from the ground, providing aid and relief to war-torn societies, and documenting violations of human rights and the laws of war."⁵¹ During the cold war, many NGOs did not have access to landmine-infested areas because of instability and politics and accordingly were either unaware of the landmine problem or unable to properly assess the effects of landmine use.

While it is true that the end of the cold war allows governments to focus on less strategic issues, and humanitarian NGOs to operate in previously closed areas, that fact does not provide a complete explanation for the rise of landmines on the international political agenda. It does not explain, for example, why landmines rather than many other worthwhile issues, such as environmental degradation and child soldiers, remain low-priority items for governments.

Emboldened NGOs setting the international agenda. Even though the landmines protocol of the CCW was signed in 1980, it remains relatively unnoticed by the international community as reflected by the fact that after fifteen years only fifty-two states have ratified it.⁵² Upset at the lack of universal support for the CCW and the effects of landmines, the ICBL was created in 1991, when the Vietnam Veterans of America Foundation (VVAFA), based in Washington, D.C., and MEDICO, the German medical NGO, decided to form a broad-based international campaign to speak with one voice supporting the ban. It was officially launched in October 1992 when six NGOs took "a number of individual and joint steps in the direction of the ban campaign by issuing a 'Joint Call to Ban Antipersonnel' landmines and hosting the first NGO-sponsored international landmine conference in May of 1993."⁵³

⁵⁰ Pre-1997 NATO states that signed the Ottawa Treaty were Canada, Belgium, Denmark, France, Germany, Greece, Iceland, Ireland, Italy, Luxembourg, The Netherlands, Norway, Portugal, Spain, United Kingdom; NATO states that did not sign were Turkey and the U.S. Ex-Warsaw Pact states that signed the treaty were Bulgaria, Czechoslovakia (both the Czech and Slovak Republics), Hungary, Poland, Romania; the only Ex-Warsaw Pact state that did not sign was Russia.

⁵¹ Williams and Goose (fn. 6), 21.

⁵² Christopher S. Wren, "U.N.-Backed Drive to Restrict Land Mines Fails at Talks," *New York Times*, October 13, 1995.

⁵³ The six NGOs were Handicap International (France), Human Rights Watch (United States), Medico International (Germany), Mines Advisory Group (United Kingdom), Physicians for Human Rights (United States), and the Vietnam Veterans of America Foundation (United States) in Williams and Goose (fn. 6), 22.

The ICBL knew that it needed to draw international attention to the landmine issue in order to be successful. They made “this appeal on a moral basis; on a position of political morality,”⁵⁴ thus shifting the landmine debate from a political to a humanitarian issue. Issue transformation in other areas that puts “the subject into one category rather than another” helps bring the problem to the attention of those in and around government. The landmine-ban’s transformation from a political to a humanitarian issue began when, in January 1991, the Women’s Commission for Refugee Women and Children called for a ban in its testimony before the United States Senate about the plight of landmine survivors in the Cambodian border refugee camps.⁵⁵ It is interesting to note that this is the first time that landmine use was addressed publicly as a humanitarian concern and not a security issue in the United States.

SCHEMA: OUTRAGEOUS STATISTICS

NGOs promoted statistics as systematic indicators in a schema to get states to recognize the landmine problem. These statistics resonated with the media, the public, and policymakers because they were so outrageous that the problem could no longer be ignored. This strategy to garner attention is similar to the assumption that new issues need to encourage action by promoting systematic indicators, such as crises and disasters or by feedback from ongoing programs. Changes in these indicators usually highlight that there is a problem in the system because “a steady state is viewed as less problematic than changing figures.” Policymakers use these indicators to decide whether to address an issue, first by assessing the magnitude of the problem and, second, by becoming aware of changes in the problem.⁵⁶

The prime indicator used by NGOs as part of this schema is that landmines kill and maim more than twenty-six thousand people per year of whom an estimated 80 percent are civilian.⁵⁷ The claim is also made that this carnage will not end anytime soon because there “may be 200 million landmines scattered in at least sixty-four countries,”

⁵⁴ Statement by Kenneth Anderson, director, Arms Project, Human Rights Watch, Global Landmine Crisis Hearing before a Subcommittee of the Committee on Appropriations, United States Senate, May 13, 1994.

⁵⁵ Williams and Goose (fn. 9), 20–21.

⁵⁶ John W. Kingdon, *Agendas, Alternatives, and Public Policies* (Glenview, Ill.: Scott, Foresman and Company, 1984), 20–21, 96.

⁵⁷ Gino Strada, “The Horror of Land Mines,” *Scientific American* (May 1996), 42. Most landmine victims are women and children. Donovan Webster, “One Leg, One Life at a Time,” *New York Times Magazine*, January 23, 1994, p. 33.

making them “one of the most toxic and widespread pollution[s] facing mankind.”⁵⁸

Moreover, NGOs emphasized that for many civilian communities the nature of war had recently changed from targeting the professional military of the enemy to targeting its civilians. According to UNICEF, for example, more children die from landmines after a war for which those landmines were deployed than do soldiers during the war. Due to the nature of the landmine injury—usually amputation, if not death—those countries infested by landmines have the largest amputee populations in the world. For example, a 1991 study of Cambodia’s amputee population found that over thirty thousand of the country’s 8.5 million inhabitants were amputees and another five thousand amputees lived in refugee camps along the Thai border.⁵⁹ A 1998–99 study found that while Cambodia’s population had grown to 10 million people, twenty-four thousand had survived mine injuries and more than fourteen thousand had died.⁶⁰

Furthermore, according to UN demining expert Patrick Blagden, a fifty-fold increase in the world’s mine-clearing capability is needed to “stabilize” the current situation. Such an effort would require training 170,000 to 200,000 new mine clearers worldwide costing \$1.02 billion to \$1.2 billion per year. He warned, however, that accidents happen at a rate of one out of every 1,000 to 2,000 mines destroyed: “a fifty fold increase in manual mines clearance would probably cause a death and injury toll among mine clearers of about 2,000 per year, a rate that in the long term may not be supportable.”⁶¹ Kuwait is a case in point. Within the first week after the war, all five Kuwaiti mine-clearing experts were killed attempting to clear landmines. Additionally nearly one hundred international-mine-clearance experts have been killed since the end of the Gulf War.⁶²

In another schema that helped policymakers process the landmine issue and encourage the media and the public to get involved, the effects of landmine use were compared with more commonly despised

⁵⁸ Patrick M. Blagden, UN demining expert, estimates that there may be more than 200 million landmines. Blagden, “Summary of United Nations Demining,” *Symposium on Anti-personnel Mines* (Geneva: ICRC, 1993), 117. *1993 Hidden Killers* (fn. 30), 2.

⁵⁹ Eric Stover and Dan Charles, “The Killing Minefields of Cambodia,” *New Scientist*, October 19, 1991, p. 27.

⁶⁰ *Landmine Monitor Report 1999* (fn. 33), 405.

⁶¹ Patrick Blagden, “The Use of Mines and the Impact of Technology,” in Kevin M. Cahill, ed., *Clearing the Fields: Solutions to the Global Land Mines Crisis* (New York: Basic Books and Council of Foreign Relations, 1995), 114–15.

⁶² Webster (fn. 57).

and feared weapon systems: biological, chemical, and nuclear weapons. NGOs currently estimate that more people have been killed and maimed by landmines than by biological, chemical, and nuclear weapons combined.⁶³

Many of the statistics generated by NGOs, however, are inflated and, more significantly, regurgitated by the media and policymakers without proper fact-checking and research. Some of the overinflated figures have become so widely used that original sources and methodological data-collection techniques are unknown, and "some land mine figures are repeated so often that they are now regarded as fact."⁶⁴ The more common, inflated claims center on the number of currently deployed landmines, such as in Afghanistan where 35 million was the initial estimate, which was later reduced to 10 million "as a conveniently round figure." Even that figure is suspicious because it would have required that the Soviets deploy "3,000 mines per day, every day of the nine-year occupation, which, given the mountainous nature of the terrain and the style of conflict, was unrealistically high."⁶⁵ The high estimate of landmines in Angola is also questionable. As one Red Cross deminer stated, "For there to be so many mines in Angola would have required four jumbo jets of mines arriving daily for 20 years."⁶⁶ The deployment of mines during the Gulf War provides another example of grossly inflated statistics. It was initially estimated that 9 million landmines were laid by Iraqi forces immediately preceding and during Operation Desert Storm.⁶⁷ A few years after the war, however, a survey showed only around 1.7 million mines had been emplaced.⁶⁸

These statistics were promoted via the Internet and through conference mechanisms such as speeches and prepared reports. They were immediately picked up by the media, which, in turn, provided the information to the public and governments. As recently as September 1999, CNN was still quoting NGO estimates that more than forty thousand landmines were being deployed each week,⁶⁹ even though the figure had no factual basis and was no longer used by NGOs, especially the ICBL. Since CNN reports are broadcast around the world and are impor-

⁶³ America's Defense Monitor, PBS-TV, Spring 1994.

⁶⁴ Laurie H. Boulden, "A Mine Field, Statistically Speaking: The Dangers of Inflating the Problem," *Washington Post*, February 8, 1998, C2.

⁶⁵ Croll (fn. 24), 131.

⁶⁶ Christina Lamb, "Number of Land Mines Challenged: Report Calls U.N. Global Estimate of 110 Million Exaggerated," *Washington Times*, November 30, 1998, A1.

⁶⁷ ICRC, *Anti-personnel Landmines Friend or Foe? A Study of the Military Use and Effectiveness of Anti-Personnel Mines* (Geneva: ICRC, March 1996), 37.

⁶⁸ *Landmine Monitor Report 1999* (fn. 33), 15.

⁶⁹ Bernard Shaw, CNN's *World News Tonight*, September 6, 1999.

tant sources of information for many people, the report is sure to become a major resource for more people learning about landmines. In fact, while Bernard Shaw, the anchor for CNN television's *World News*, attributed the statistic to the ICRC, the less-used CNN website did not refer to the deployment rate. The CNN report used outdated ICRC statistics, which were rough estimates at best. Today's estimates of the weekly rates of deployment are significantly less than the initial estimates of eighty thousand per year, in which more mines were being emplaced than taken out.⁷⁰ The CNN report used the unverified statistic as the lead-in to the news story to grab the viewer's attention. This example highlights how information and media technologies were used to get the public to pay attention to the landmine issue by highlighting dramatic statistics, whether or not they were truthful.⁷¹

These statistics were not seriously questioned until late in the agenda-setting process, primarily in the months leading up to the signing of the Ottawa Treaty in December 1997,⁷² when it was too late to distract attention from the landmine issue. By this time, the issue was already on the international political agenda and had attracted tremendous media and public attention. An ICBL critic wrote that the campaign continually used "powerful images of dreadfully wounded civilians." Those images called "attention to the (exaggerated) scale of the problem," which, in turn, "rapidly galvanized public opinion and prompted a number of countries to restrict or prohibit the use of anti-personnel mines unilaterally."⁷³

PRIMING: LANDMINE VICTIM STORIES

The schema to get people to think about landmines was primed primarily by landmine-victim stories. If policymakers and the public did not completely understand the statistics that were publicized to awaken the memory of a horrible humanitarian disaster, many of them finally did comprehend the magnitude of the situation when they were confronted with the stories of thousands of landmine victims. More often than not, most governmental statements concerning the landmine-ban issue discussed the plight of landmine victims. The ICBL and the ICRC continually featured these stories, which were picked up by the media and pro-ban governments. One of the key points that the campaign

⁷⁰ *Landmine Monitor Report 1999* (fn. 33), 3.

⁷¹ See Kenneth R. Rutherford, "Internet Activism: NGOs and the Mine Ban Treaty," *International Journal on Grey Literature* 1, no. 3 (2000).

⁷² Croll (fn. 24), 151.

⁷³ *Ibid.*, 35.

emphasized was the dismemberment of people by landmines, which is due to design features that stress maiming, not killing. The resulting injuries are horrifying. The conventional wisdom behind this strategy is that a wounded enemy soldier is less costly to the enemy than a dead one. NGO health workers continually highlighted the effects of landmines on people. For example, landmine victims usually require amputation and long hospitalizations.⁷⁴ A study of blood use by ICRC hospitals “found that, overall, for every 100 wounded, 44.9 units of blood were required, while every 100 mine injuries required 103.2 units.”⁷⁵

In addition, many media stories and NGO reports discussed the negative social impact that landmines have on many marginalized populations.⁷⁶ In addition, the ICBL and ICRC continually featured landmine victims prominently in their educational, fundraising, and promotional literature and sponsored their participation in international conferences.⁷⁷ They mounted an effective public-education and media campaign that made it politically difficult for governments to ignore the landmine issue. According to two of the major ICBL leaders, Stephen D. Goose of Human Rights Watch (HRW) and Jody Williams of the ICBL, “most of the early news on AP mines was focused on the victim side of the equation and the tremendous difficulties faced by humanitarian deminers.”⁷⁸ Another ICBL leader, Rae McGrath of the Mines Advisory Group (MAG), argued that the “deaths and injuries caused to innocent people, and the denial of ground for agricultural and other civilian purposes as a result of the presence of mines, made it inevitable that the aid community must face up to the issue.”⁷⁹

The Canadian Government and other core group policymakers—as representatives of the main state sponsors for the landmine ban—also featured landmine victims prominently in their policy speeches in order

⁷⁴ J. Rautio and P. Paavolainen, “Afghan War Wounded: Experience with 200 Cases,” *Journal of Trauma* 28 (April 1988); and D. Johnson, J. Crum, and S. Lumjiak, “Medical Consequences of the Various Weapons Systems Used in Combat in Thailand,” *Military Medicine* 146 (1981); quoted in Chris Giannou, and J. Jack Geiger, “The Medical Lessons of Land Mine Injuries,” in Cahill (fn. 61), 141.

⁷⁵ B. Eshaya-Chauvin and R. M. Coupland, “Transfusion Requirements for the Management of War Injured: The Experience of the International Committee of the Red Cross,” *British Journal of Anaesthesia* 68 (1992), quoted in Giannou and Geiger (fn. 74), 140.

⁷⁶ For example, see Paul Davies, *War of the Mines: Cambodia, Landmines and the Impoverishment of a Nation* (Boulder, Colo.: Pluto Press, 1994); Roberts and Williams (fn. 39); Phillip C. Winslow, *Sowing the Dragon's Teeth: Land Mines and the Global Legacy of War* (Boston: Beacon Press, 1997).

⁷⁷ For examples, see International Committee for the Red Cross, *ICRC Overview 1998: Landmines Must Be Stopped*; International Campaign to Ban Landmines, *Landmine Monitor Report 1999* (fn. 33); ICBL brochures.

⁷⁸ Williams and Goose (fn. 6), 23.

⁷⁹ Rae McGrath, *Landmines: Legacy of Conflict: A Manual for Development Workers* (Oxford: Oxfam, 1994), 2.

to attract more states to signing the Ottawa Treaty. Such a priming strategy is perhaps the most significant reason that the movement to ban landmines garnered so much international political action and attention so fast. In essence, the forces who favored a landmine ban used landmine victims as the priming tool with the assumption that the frequency, prominence, or feature of the international community's humanitarian impulse would lead to increased international attention to the issue. Even an anti-ban commentator stated that the strategy worked, saying that "the misery and suffering caused by mines in developing countries caught the imagination of the media and the Western World."⁸⁰

LEVEL TWO: NORM AGENDA SETTING

NGOs successfully placed the landmine issue on the international political agenda, the first level of agenda setting. It was then their task to change how governments viewed landmines, the next agenda-setting level.

Level-two agenda setting addresses the influence of attribute salience of the NGO landmine activities among governmental policymakers and the public. The level's main theme is the NGOs' promotion of the landmine ban and how it changed policymakers' perceptions about landmine use. At this level discussions focus on how NGOs got governmental policymakers to understand landmines in a new way and subsequently why state landmine policies changed. The main thesis is that the more NGOs could convince governments of the horrible effects of landmine use, especially the disproportionate civilian casualties, the greater the possibility of changing state perception and use of landmines.

FRAMING: HORRIBLE EFFECTS AND DISPROPORTIONATE CONSEQUENCES

The main framing mechanism to encourage policymakers to view landmines differently was to label them as illegal under *current* international humanitarian law, primarily because their use was causing disproportionate casualties among noncombatants and unnecessary suffering to both the military and civilians. NGOs based their landmine-ban arguments on already established norms and principles. Their key agenda-setting argument in support of the landmine ban concerned proportionality. The 1977 Protocol I to the 1949 Geneva Convention requires belligerents to weigh the expected military utility of a particu-

⁸⁰ Croll (fn. 24), 129.

lar weapon against the humanitarian costs.⁸¹ Essentially, the law says that an attack, which may cause more harm to noncombatants than necessary to fulfill the military objective, is illegal. The use of landmines violates this principle in two ways: (1) when the proportionality rule is applied to the whole landmine system, the humanitarian costs outweigh the military demands; and (2) the time-delay feature of the landmine does not allow the military commander to make the calculations for proportionality.⁸²

The NGOs also used the international humanitarian legal argument that landmines are inherently indiscriminate because once deployed they cannot target its victims. Anti-ban forces were able to dispute this argument much more than the proportionality argument. For example, the U.S. position was that landmines could be discriminately used in the right circumstances because landmines were like other “legal” weapons, such as artillery shells, missiles, and air delivered bombs, whose targets may include civilians. Robert Sherman from the U.S. Arms Control and Disarmament Agency (ACDA) responded to the indiscriminate argument in the following manner:

I frequently hear it said that landmines are indiscriminate; they can't tell the difference between a child or a soldier. That's true, but it's also true of other weapon[s] of war. The shell, bomb, missile that can tell the difference between a child and a soldier has yet to be invented. The military would love it if it were but it doesn't exist and won't in the foreseeable future.⁸³

In contrast, even the most ardent critics of the landmine ban admitted that they were causing a humanitarian problem as evidenced by the great *proportion* of civilian casualties among the landmine victims. In his book, *The History of Landmines*, Mike Croll claims that the movement to ban landmines is “unlikely to be beneficial” but that the landmine issue itself came about because of the ICBL's success in attracting international attention to it as a moral issue.⁸⁴ Croll and Sherman, ardent ban opponents, defend their positions by admitting to a humanitarian problem caused by landmines. While Sherman compares the humanitarian problem induced by landmines as “not a unique humanitarian problem” when compared with the effects of other weapons, he goes on to say that unlike other weapons, the “time factor” of landmines

⁸¹ 1977 Additional Protocol 1, Geneva Convention, Article 51 (4), 1949.

⁸² Ekberg (fn. 40), 166.; “The Arms Project,” quoted in Roberts and Williams (fn. 39) 490–91.

⁸³ Robert Sherman, “Banning Anti-Personnel Land Mines: The Ottawa Process and Beyond,” *Disarmament: The Future of Disarmament*, April 16, 1997, 106.

⁸⁴ Croll (fn. 24), xi, 151.

makes them last a very long time after the war, resulting in “a lot of mines left behind and a lot of civilian casualties.”⁸⁵ Similarly, Croll says

that today it is impossible to cover this subject without reference to the humanitarian perspective and without having one’s morals scrutinized. It certainly has not been my objective to glorify what is surely one of the most insidious weapons ever developed nor to condone the suffering of the many innocent people killed and injured by them.⁸⁶

By transforming the landmine-use issue from a strictly political-military problem to a humanitarian question, NGOs provided themselves with the diplomatic space to play important roles in disseminating information about landmines to the media, policymakers, and the public. Even governmental arms-control negotiators considered it a humanitarian issue; as Sheridan stated, “I’m going to make a plea that we treat this not as a political issue but as a humanitarian issue.”⁸⁷ While the laws of armed conflict will always wrestle with the unclear balances between military demands and humanitarian standards, NGOs argued that a complete prohibition of landmines is the only political and practical way to eliminate the harm caused by landmines to civilian populations and the environment.

Noticeably, the ICBL “never denied the utility of the antipersonnel landmine in certain situations,” albeit the United States Campaign to Ban Landmines (USCBL) recently stated that landmines “have no military value.”⁸⁸ The USCBL misstatement is perhaps due more to ignorance on the part of recent landmine-ban activists of the genesis of the issue and of previous arguments to get states to discuss landmines as a humanitarian issue than to keeping the discussion in the military domain. The indirect consequence, however, is that such statements indeed shift the landmine debate back to the military realm, exactly what the NGOs wanted to avoid.

Contrary to recent USCBL claims that landmines do not have military utility, many of the ICBL leaders, pro-ban state diplomats, and others acknowledge that landmines are used for many reasons, such as to protect strategic locations, channel enemy forces, deny certain positions to the enemy, and slow down enemy movement.⁸⁹ In attempting to

⁸⁵ NGO Committee on Disarmament, UN forums, April 10, September 23, and October 21–23, 1997 (Edited transcripts, 1998).

⁸⁶ Croll (fn. 24), xi.

⁸⁷ NGO Committee on Disarmament, (fn. 85).

⁸⁸ Statement by Jody Williams, Duke University Conference on Land Mines, May 1, 1998. USCBL, “Statement of the United States Campaign to Ban Landmines Condemning Yugoslav Landmine Aggression in Kosovo,” April 15, 1999.

⁸⁹ Williams (fn. 88).

steer away from landmine-utility arguments, Canadian and other pro-ban state policymakers emulated the NGO strategy of focusing strictly on the humanitarian and legal aspects of the debate rather than of engaging militaries in it. The pro-ban states leading the interstate negotiations also wanted to avoid debating the utility of landmines on the battlefield, which they thought would derail the treaty's development by shifting landmine discussions to the consensus-based negotiating forums of the CCW and Conference on Disarmament (CD).⁹⁰ Because landmines are considered a useful military tool, the major powers and many military leaders believed that taking the landmine issue to these alternative forums—the only international forums to address disarmament issues—was more appropriate and conducive to discussing further use restrictions and/or a ban.⁹¹

The downside to negotiating the ban in the CCW or CD was significant. Both forum processes are lengthy, primarily because they are consensus-based, usually taking decades of negotiations to reach an agreement. In 1997, for example, Mexico blocked the attempt to put the landmine issue on the CD agenda. Since several other states in the CD are also opposed to putting landmines on the agenda or to issuing an immediate landmine ban, the landmine issue currently cannot be discussed within the CD. Similarly, getting a landmine ban on the CCW agenda was impossible because many states, “such as Russia, India, China and the United States, say they still need landmines to protect international borders, and therefore preferred to discuss landmines in the context of restrictions rather than implementing a ban.”⁹²

While the ICBL did not question the military utility of landmines, they questioned whether their “limited” utility proportionally outweighed the humanitarian costs. To provide political cover for governmental policymakers, several NGOs sought to collaborate with military leaders and argue that the military utility of landmines was minimal. On April 3, 1996, the Vietnam Veterans of America Foundation (VVAFA) sponsored a full-page letter in the *New York Times* to President Clinton, which was signed by fifteen retired military leaders, including

⁹⁰ The Conference on Disarmament (CD) was created by the United Nations to negotiate arms-control agreements. The CD usually discusses weapons of mass destruction rather than conventional weapons, which is why the UN created the CD outside the auspices of the CCW.

⁹¹ Robert J. Lawson, Mark Gwozdecky, Jill Sinclair, and Ralph Lysyshyn, in Cameron, Lawson, and Tomlin, eds. (fn. 6), 165. For an explanation of the negative consequences of consensus-based negotiating for weapon issues, see Stephen D. Goose, “Antipersonnel Landmines and the Conference on Disarmament,” <http://www.icbl.org>, Home>Resources>Documents; Rutherford (fn. 3).

⁹² Philippe Naughton, “Landmine Pact to Go Ahead after Pakistan Backs Down,” *Reuters*, May 3, 1996.

General Norman Schwarzkopf, Commander of Operation Desert Storm, that supported a ban. One month earlier, the ICRC had released “a study of the military use and effectiveness of anti-personnel mines,” which was endorsed by more than ten active and retired international leaders from nine countries and concluded that

“the military utility of AP mines is far outweighed by the appalling humanitarian consequences of their use in actual conflicts. On this basis their prohibition and elimination should be pursued as a matter of utmost urgency by governments and the entire international community.”⁹³

Furthermore, the ICBL assisted Canada and other pro-ban states in the treaty-negotiating process by developing and delivering public support for the ban and by providing valuable information and analytical reports based on that information. In particular, the ICBL held conferences in Asia, Africa, Europe, and Latin America to help generate public and governmental support for the ban and to draft recommendations for the leading pro-ban states that were drafting the treaty. It also participated as an active member in conferences that took place in 1996 and 1997 in Austria, Belgium, and Sweden. The ICBL was allowed to do so primarily because the conferences “had not been held hostage to rule by consensus,” which, in turn, allowed “for the first time, smaller and middle-sized powers” to “come together, to work in close cooperation with NGOs” to achieve, for the first time, “a ban on a weapon in widespread use.”⁹⁴ Axworthy recognized the importance of the help of NGOs in creating the regime when he stated at the conference in Ottawa in October 1996 that the NGOs “are largely responsible for our being here today. The same effective arguments you used to get us here must now be put to work to get foreign ministers here to sign the treaty.”⁹⁵

Human-rights NGOs, such as HRW and Physicians for Human Rights (PHR), have also invoked human-rights treaties, many of which are considered customary law⁹⁶ and highlight the proportionality argument. The use of human-rights arguments for banning landmines follows the recent expansion of international NGO human-rights activities from the early 1990s to include economic and social rights.⁹⁷ Partially a

⁹³ ICRC (fn. 67).

⁹⁴ Williams and Goose (fn. 6), 45.

⁹⁵ Statement by Lloyd Axworthy, International Strategy Conference, “Towards a Global Ban on Anti-Personnel Mines,” Ottawa, Canada, October 5, 1996.

⁹⁶ Susan Benesch, Glenn McGory, Christina Rodriguez, and Robert Sloane, “International Customary Law and Antipersonnel Landmines: Emergence of a New Customary Norm,” *Landmine Monitor Report 1999* (fn. 33), 1032.

⁹⁷ Korey (fn. 8), 16.

result of an increased focus on social and economic rights by developing states, it also helped bridge a North-South coalition atypical for arms control and disarmament treaties. Moreover, grafting norms, such as human rights, that previously had been agreed to universally also helped to ensure that the landmine issue would receive sustained attention, unlike more complex international issues.⁹⁸

SCHEMA: LEADERSHIP GAMES

The main schema used in the policy agenda-setting level entailed games concerning who was taking the leadership role in addressing the humanitarian aspects of the landmine issue. The main players were the major powers, especially the United States, and NGOs and their state allies such as Canada and South Africa. NGOs continually argued that major powers were not necessary to achieve the treaty, although they pressured states to join the treaty. While there were other leadership games taking place within the ICBL, between the ICBL and the ICRC and among the pro-ban states to direct the movement, the major game took place between the United States and the pro-ban coalition. Eventually the media joined this particular leadership “game schema” because they had once supported the concept of a landmine ban; they “increasingly recognized the compelling story behind the global humanitarian crisis and the ‘David and Goliath’ nature of NGOs taking on governments and militaries to ban a weapon used by armies for decades.”⁹⁹

The leadership schema presented contrasted the major powers. At the initiation of NGOs, the leadership turning points for each of the states was directly tied to individuals to get their governments to ban landmines. The main point of this section is to highlight the false games played by states initially to oppose a landmine ban and then to support a ban in an effort to gain public-opinion credibility at the initiative of individuals who carry the support of NGOs. Each of these relationships is addressed briefly below.

United States: Senator Leahy and the Vietnam Veterans of America Foundation. The United States came too late to the Ottawa Treaty negotiations, having joined the conference for the final drafting of the treaty in Oslo in September 1997. This conference took place less than three months before the date of the treaty signing scheduled for early December in Ottawa. By coming to the conference with a series of requests that it wanted to incorporate into the treaty, the U.S. delegation

⁹⁸ Price (fn. 6), 627–31.

⁹⁹ Williams and Goose (fn. 6), 23.

attempted to break the treaty package that had already been assembled and presented to the state delegates in Oslo.¹⁰⁰ Its proposal was not well received by states and completely rejected by the ICBL primarily because the Americans wanted a treaty exception for mixed antitank and antipersonnel landmine systems. Subsequent to the rejection, President Clinton explained U.S. opposition to the treaty by saying that the United States “implored the people there [at the Oslo Final Drafting Treaty Conference] to give us the exceptions we needed.”¹⁰¹

One of this essay’s major arguments is that nonsignatory states, such as Russia and the United States, are having difficulty developing a coherent landmine policy because both the transformation of the landmine debate on the international political agenda from a security to a humanitarian issue and the speed of the issue rising to the top of the international political agenda took them by surprise. Opening up the debate to humanitarian issues invites nontraditional decision-making actors in foreign and security policy, such as refugee, religious, and human-rights activists who support a ban, into the public policy-making process. Transforming the debate expands the scope of conflict about landmine policy, thereby helping to increase the visibility of the issue to the American public and, in turn, involving them more actively in policy discourse.¹⁰² The effect is a weakening of the monopoly held by certain government agencies on security and tactical weapon policy. For example, Defense Secretary William Cohen wrote that “the mass media’s coverage of the recent talks in Oslo on land mines could easily leave the impression that the United States is largely responsible for this humanitarian tragedy, or at least stands in the way of international efforts to stop the dying and maiming. Such an impression is simply wrong.”¹⁰³ The debate’s transformation to an area where civilians and nonmilitary decision makers have more influence, and therefore are more vulnerable to NGO pressure, has important implications.

The main force behind the U.S. need to address continually the humanitarian aspects of the landmine debate is Patrick Leahy, Democratic senator from Vermont, and the VVAF. Leahy became interested in

¹⁰⁰ The U.S. demands were presented in a take-it-or-leave-it package and consisted of five interlocking components: exception for landmine use in Korea, deferral of the date when the treaty would enter in force, changes in the definition of an antipersonnel landmine, more intensive verification measures, and a withdrawal clause from the treaty in cases of national emergency.

¹⁰¹ Lineuvid Gollust, “Clinton/Canada/Landmines,” *Voice of America*, November 23, 1997.

¹⁰² Schattschneider argues that the expansion of conflict signifies a healthy democracy because it allows for increased public participation, usually through “responsible leaders and organizations,” in the policy process. Schattschneider, *The Semisovereign People: A Realist’s View of Democracy in America* (New York: Holt, Rinehart and Winston, 1976), 142.

¹⁰³ William S. Cohen, “Necessary and Right,” *Washington Post*, September 19, 1997, p. A23.

the humanitarian aspects of the landmine issue in the early 1990s, when he and his wife visited Central America and met several landmine-disabled children. Soon thereafter, he became the first U.S. public official to label landmines as illegal. Since then, he has been the key legislator to introduce measures against landmines. Leahy ultimately moved the United States into a leadership role between 1992 and 1994, when he worked closely with Bobby Mueller, VVAF's executive director, to help push landmine legislation forward. Speaking about Mueller and the VVAF's efforts at the first ever U.S. Senate hearing on landmines, Leahy said, "I think he has done more and had more responsibility for the global campaign against landmines than anybody I know. . . . So, I just want to say publicly that without not only the constant inspiration but the constant push from Bobby Mueller I do not know if we would be even having this hearing today."¹⁰⁴

In 1992 the VVAF and other NGO allies, such as HRW, encouraged the Senate to pass Leahy's amendment to ban the export of all landmines.¹⁰⁵ The following year the Senate passed (100-0) a three-year extension, which is now permanent. In 1994 President Clinton was the first international leader to address the United Nations about the need for a ban. As part of establishing landmines on the international agenda, Leahy held the "The Global Landmine Crisis"¹⁰⁶ on May 13, 1994, inviting several American landmine victims and representatives of humanitarian NGOs to testify about the effects of landmines. Since then he has introduced new landmine legislation every year working closely with the ICBL to push the United States position closer to a ban and encouraging other states, such as France, to take their own steps toward a ban.¹⁰⁷

Since these early victories, however, Leahy and his NGO allies have failed to stop the Clinton administration from backtracking in its leadership role to enact international and domestic legislative measures to alleviate landmine use. Subsequent to the Clinton administration's declared opposition to the treaty, Leahy argued that holding states to different standards would defeat the stigmatization force that a

¹⁰⁴ Patrick Leahy, "The Global Landmine Crisis," Subcommittee of the Committee of Appropriations, U.S. Senate, May 13, 1994, 66-67.

¹⁰⁵ "The Scourge of Landmines," Vermont's U.S. Senator Patrick Leahy, <http://www.senate.gov/~leahy>.

¹⁰⁶ Leahy (fn. 104). The author provided testimony along with representatives from international NGOs, domestic interest groups, and the Department of State. The DOD declined Leahy's invitation to attend.

¹⁰⁷ Senator Patrick Leahy letter to Handicap International encouraging the French government to call for a review of the landmines protocol to the CCW, January 18, 1993. Handicap International, *For the Banning of Massacres of Civilians in Time of Peace: Facts and Chronologies*, 2d ed. (Lyon, France: Impression MEDCOM, June 1997).

comprehensive treaty could deliver. He said during the final treaty negotiations that “an effective international agreement that is based on stigmatizing a weapon cannot have different standards for different nations.”¹⁰⁸

Great Britain: Diana, Princess of Wales, and the British Red Cross, the Mines Advisory Group, and the Landmine Survivors Network. Until mid-1997 Great Britain was among the treaty’s strongest opponents, so it came as a surprise to anti-ban supporters that its landmine policy completely reversed in a matter of months. The landmine issue in Great Britain initially gathered attention in January 1997 when Princess Diana visited Angola as a guest of the British Red Cross and Halo Trust, a British NGO working to clear landmines. She called on the British government to ban landmines as the only humanitarian option. At the time of this statement, the British landmine position was similar to that of the U.S. and supported the continued use of landmines. Her remarks “produced a telling conflict with some decision-makers in the government, since her position in favor of a total ban on land mines deviated from official policy.” After condemning her remarks, one governmental official called her a “loose cannon.”¹⁰⁹ The effects of her Angolan visit with the British NGOs created more publicity about British policy toward landmines than ever before.

Before her trip, British official David Davis stated that supporting a ban would sacrifice “the effectiveness of our armed forces on the altar of political correctness.” Several months after Princess Diana’s trip to Angola, Davis announced that Great Britain would support a ban. Furthermore, in a complete reversal of policy, the British government started to praise Princess Diana’s positive influence on the issue. The newly appointed International Development Secretary, Clare Short, stated that “we need a worldwide ban and the more the Princess can do to bring that about, the better. The Princess has drawn the world’s attention to this problem.” Responding to past Conservative Party criticism about her involvement into what was then perceived to be a security issue, the Princess said, “I am not a political figure. I’d like to reiterate now, my interests are humanitarian. That is why I felt drawn to this human tragedy. That is why I wanted to play my part in working towards a worldwide ban on these weapons.”¹¹⁰

¹⁰⁸ Patrick Leahy, “Seize the Moment,” *ICBL Ban Treaty News*, September 9, 1997, 1, quoted in Robert J. Lawson, Mark Gwozdecky, Jill Sinclair, and Ralph Lysyshyn, “The Ottawa Process,” in Cameron, Lawson, and Tomlin, eds. (fn. 6), 178.

¹⁰⁹ Fred Barbash, “Royal Spin” *Washington Post*, February 14, 1997, A23.

¹¹⁰ Robert Hardman, “Princess Calls for Greater Efforts to Clear Landmines,” *Daily Telegraph*, June 13, 1997, 10.

Great Britain's opposition to the ban disappeared relatively soon after the rise to power of Tony Blair's Labor Party, which had made banning landmines one of its election-campaign-platform goals. However, it was British NGOs, especially through Princess Diana as patron of the British Red Cross and through her association with British demining NGOs, such as the Halo Trust and MAG, and her visit to Bosnia with the American humanitarian NGO Landmine Survivors Network (LSN), who encouraged the British public to support a ban and Blair to follow through on his campaign pledge. Upon taking office, the Blair government did announce a ban but with significant reservations, including the "the right to use mines in exceptional circumstances."¹¹¹ This directly contravened the ICBL's goal to allow no exceptions. It is not surprising therefore, that Blair's government announced a complete ban soon after British NGOs and Princess Diana wanted his government to follow through on its campaign promise. His government rightly feared that once the landmine issue was placed squarely on the political agenda as a humanitarian issue, British policy for continued landmine use would be unsustainable.

In conclusion, Princess Diana's involvement with the NGOs helped encourage a change in British landmine policy, which, in turn, ensured the Ottawa Convention's success two ways. First, it helped bring about Great Britain's support for a ban. This move damaged the position of the U.S., the most vocal of the treaty's opponents, because until then Great Britain and the United States had similar positions. Losing Great Britain as an ally on the ban issue helped isolate the U.S. from landmine discussions, and, more importantly damaged its credibility vis à vis other allies on the issue. More specifically, Great Britain's change in policy resulted in the United State's isolation from its allies and all NATO members, except Turkey, who also did not support the convention.

Second, Princess Diana's support of NGOs and their arguments to ban landmines helped transfer the issue from a political to a humanitarian problem. Moreover, she was able to leverage the media into covering the landmine issue from locations such as Angola and Bosnia and thereby helped to marshal public support for the ban and against the British anti-ban position. Each of her trips to landmine infested states was organized and planned by humanitarian NGOs. Several days after her death on August 31, 1997, the Oslo Conference began to finalize the treaty. In recognition of her influence in the landmine issue, the prime minister of Norway stated at the conference's opening session

¹¹¹ Tim Butcher, "Labour Bans Landmines from 2005," *Electronic Telegraph*, May 22, 1997.

that the treaty should be titled the Diana, Princess of Wales Treaty, highlighting the fact that she helped the NGO movement to bring attention to the landmine issue, promote assistance to landmine victims, and focus on the landmine ban.

South Africa: Nelson Mandela and the South African Campaign to Ban Landmines. In February 1997, on the eve of the ICBL conference in Maputo, Mozambique, the South African government announced that it would impose an immediate ban on the use, production, export, and transit of landmines, thereby becoming one of the first African states to declare a unilateral ban.¹¹² This announcement soon led many other African states to support the Ottawa Process.¹¹³ The South African government's decision was brought about through pressure from the South African Campaign to Ban Landmines (SACBL), a coalition of more than 100 South African NGOs.

The SACBL was able to achieve its government's support for a ban by placing the issue on the agenda as a humanitarian problem via several approaches. First, humanitarian NGOs and student associations started campaigning for a ban in 1993. This racially diverse coalition, coupled with the rise to power of Nelson Mandela and the first democratically elected government in 1994, allowed "unprecedented access to senior political and bureaucratic officials" that "greatly facilitated the eventual symbiosis of governmental and nongovernmental activities and policy positions." There were many common bonds and friendships between SACBL members and governmental officials, including Nelson Mandela, because they were "historical partners" in the antiapartheid struggle.¹¹⁴ Secondly, even foreign NGOs influenced the South African government's decision to act on the landmine issue. South African Defense Minister Joe Modise said that South Africa's decision was greatly impacted by United States General Norman Schwarzkopf's support of a landmine ban, which was demonstrated publicly in the April 1996 full-page letter in the *New York Times* to President Clinton sponsored by the VVAF.¹¹⁵

Canada: Lloyd Axworthy and Mines Action Canada. In 1993, pressured and supported by Canadian NGOs, especially human-rights

¹¹² Cameron, Lawson, and Tomlin (fn. 6), 172.

¹¹³ In addition to encouraging other African states to join the treaty, South Africa's position on banning landmines was significant for two other reasons. First, it was the major producer of arms, including landmines, in Africa, which is the most heavily mined continent in the world. Second, South Africa used mines extensively in neighboring states, helping the southern African region to become the most mined-infested region in the world.

¹¹⁴ Noel Stott, "The South African Campaign," in Cameron, Lawson, and Tomlin, eds. (fn. 6), 68, 72, 74.

¹¹⁵ Joe Modise, interview with the author, Northern Cape Province, South Africa, May 21, 1997.

groups, the newly elected liberal government in Canada transformed its foreign policy decision-making process to include more NGO consultations.¹¹⁶ This change in policy allowed a coalition of NGOs working under the auspices of Mines Action Canada (MAC) to influence Canada's landmine position directly by placing it on the government's agenda. They also encouraged Canadian Foreign Minister Lloyd Axworthy to take the lead in helping to alleviate its effects as an international social problem. Initial meetings between the NGOs and the government "produced little common ground from which discussions could progress" once it was placed on the agenda.¹¹⁷ These meetings, however, gave the NGOs an opportunity to educate government officials about the humanitarian problem caused by landmines and thereby gain legitimacy for their arguments and detract from military and strategic arguments for opposing a ban.

Canadian NGOs continued to promote the landmine issue after it was placed on the government's agenda by instituting a toll-free telephone number that people could call for information, recruiting Canadian celebrities, such as singer Bruce Cockburn, to the cause, instituting a letter writing campaign to government officials, and giving landmine victims an opportunity to present personal testimonies. As some members in the government, especially the foreign ministry, became more open to the idea of a ban, they invited MAC representatives to join the Canadian CCW negotiating teams in 1995 and 1996. Subsequently, Axworthy took the lead internationally in banning landmines by initiating and encouraging the Ottawa Process, which precipitated a dramatic transformation of Canada's international role from a faithful NATO arms-control follower during the cold war to a disarmament leader in the post-cold war world. However, Axworthy needed the support of MAC and other Canadian NGOs in order to mobilize public opinion and motivate Canadians to press for this foreign policy change.¹¹⁸ In particular, MAC and the other Canadian NGOs provided the political cover for Axworthy to put the landmine issue on the agenda and to take the initiative to encourage state action at the international level.

In summary, even though the work of Axworthy, Leahy, Mandela, and the Princess of Wales are excellent examples for highlighting the

¹¹⁶ Canadian Government of Foreign Affairs and International Trade, "Canada in the World: Government Statement," 1995, 48–49, quoted in Maxwell A. Cameron, "Democratization of Foreign Policy: The Ottawa Process as a Model," in Cameron, Lawson, and Tomlin, eds. (fn. 6), 433; Valerie Warmington and Celina Tuttle, "The Canadian Campaign," in Cameron, Lawson, and Tomlin, eds. (fn. 6), 49.

¹¹⁷ Warmington and Tuttle (fn. 116), 49.

¹¹⁸ *Ibid.*, 51, 54.

need for state action, these individuals needed NGOs to help pressure states on a number of fronts. The issue of whether or not landmines were legal touched many constituencies, such as environmental, human-rights, and refugee NGOs. These NGOs provided information, public-opinion support, and resources to these individuals to highlight the landmine issue and pressure states into changing their landmine policies.

Also helping NGOs get the landmine issue transformed from a policy to a normative issue was the cynical view that many people have of governments. It may have contributed to the muting of landmine-ban opposition. Some media scholars imply that rising levels of mistrust and cynicism in the public is correlated with growing consumption of more information from the media, especially television.¹¹⁹ Unknowingly, NGOs capitalized on those cynical views by using the media to promote landmine-victim stories and point a finger at the “bad guys” to embarrass and isolate governments not supporting the ban. For example, the ICBL developed a “good guy” list as part of a strategy to move the landmine-ban issue forward at the CCW conferences.¹²⁰ This list was circulated to the media, which, in turn, pressured governments. Moreover, data from media coverage show “that whereas mine incidents were rarely reported upon before the campaign to ban landmines reached prominence, since that time they have been treated increasingly as newsworthy events deserving of political attention.”¹²¹

In sum, the leadership-game schema influenced how the landmine issue was perceived by many governments and the public. From the NGO perspective, the landmine issue was a humanitarian problem that should be addressed at the international level. In contrast, major powers, such as the United States, argued that landmines were strategically useful tools on the battlefield. For example, the United States argued that retaining their use was essential for maintaining peace in the Korean peninsula and ridding Kuwait of Iraqi occupation. Regardless, the NGOs continually argued that such reasoning was incoherent when examining the landmine issue at the humanitarian level.

NGO support of key individuals, such as Leahy, Princess Diana, Axworthy, and Mandela, through information and political support, guaranteed that the landmine issue would be addressed once it was on the agenda. While Leahy may not have been successful in obtaining a U.S.

¹¹⁹ Capella and Jamieson (fn. 16); Kerbel (fn. 16).

¹²⁰ Williams and Goose (fn. 6), 31.

¹²¹ Richard Price and Daniel Hope, “Media Coverage of Landmines,” in *Landmine Monitor Report 1999* (fn. 33), 1048.

signature on the treaty, he did move policy closer to a ban and, most importantly, much of his domestic legislation, such as the export moratorium, was modeled by other states and the United Nations. The personal experiences of Leahy, Princess Diana, Axworthy, and Mandela, working with humanitarian NGOs, such as LSN, MAC, MAG, SACBL, and VVAF, attest that individuals can truly make a difference in policy agenda setting. Some international relations theorists argue that transnational entrepreneurs need to be important decision makers themselves or have the ability to influence such decision makers to move an issue into the international arena.¹²² These individuals seem to fit the description explained above, but they could not have achieved the landmine-policy results without NGO advice, encouragement, and support.

PRIMING: INCOHERENT ARGUMENTS

In essence, the forces in favor of a landmine ban used landmine victims as the priming tool, not only to get the landmine issue on the international agenda but also as a moral argument to stigmatize the weapon and anyone that supported its continued use. This strategy proved extremely helpful in countering anti-ban arguments that landmine use was a legitimate military activity under international humanitarian law. By featuring landmine victims frequently and prominently in their promotional literature and reports and in speeches and conferences, the NGO strategy consisted primarily of emotional arguments brought by and on behalf of victims. They were right. There was no real attempt by states opposed to the ban to dispute the humanitarian arguments. Instead, these anti-ban states made strong military and political arguments as to why landmines should not be banned but at the same time expressed humanitarian concern for the landmine victims. These strategies produced incoherent policies that were not compatible with how and why the landmine issue was established on the international agenda.

Governmental policymakers were hesitant to state their opposition to a ban because of media and public opinion condemning landmine use as the main cause of the humanitarian problem. A 1996 poll showed that the international public was increasingly united in their belief that landmines were horrific and indiscriminate killers and should be banned. The response to the question, "would you personally be in favor of or against your country signing the landmine ban treaty?"

¹²² Ethan Nadelmann, "Global Prohibition Regimes: The Evolution of Norms in International Society," *International Organization* 44 (Autumn 1990).

was overwhelming. Of the twenty-one states surveyed, Japan and the United States scored the lowest in approval at still the relatively high rates of 58 percent and 60 percent respectfully, while Denmark at 92 percent and Spain at 91 percent scored the highest. Even the citizens of other major power states, such as Russia (83 percent) and India (82 percent) favored their country signing landmine-ban treaty.¹²³

III. ALTERNATIVE EXPLANATION

NEOREALISM

Neorealists would explain the international norm for banning landmines as epiphenomenal because they believe that such norms do not have an independent effect on state behavior. For example, neorealist scholar John Mearsheimer argues that states do not follow international norms that do not serve their self-interests.¹²⁴ Since anarchy remains constant and the units of an anarchic system are functionally undifferentiated, neorealists focus on material capabilities as the most identifiable characteristics of the states rather than on sociological influences, such as norms. Therefore, according to neorealist principles, we can assume that states ban landmines because they perceive some relative gains in prohibiting landmine use. Similarly, states that do not use mines simply agree not to use them. In other words, some states did not sign the ban because continued landmine use is a means to ensure further their own survival, while other states signed because it signals merely an easy way for them to help achieve their goal of survival. The explanation for why states either signed or did not sign the treaty simply reflects the interests of states adhering to the ban.

Another neorealist explanation for why states signed the landmine ban could be that landmines have no military utility to enhance or threaten a state's security interests. Since it asserts that the primary actors in international relations are states, this particular explanation would explain the ban as a process derived from a state-centered perspective. Neorealists could argue that many states banned landmines because these weapons no longer have the utility that they once had; therefore, their prohibition does not affect state interests.¹²⁵ According

¹²³ "Ban of Use Land Mines in Favour or Against," Gallup International Opinion Research, Spring 1996.

¹²⁴ John Mearsheimer, "The False Promise of Institutions," in Michael E. Brown, Sean M. Lynn Jones, and Steven Miller, eds., *The Perils of Anarchy: Contemporary Realism and International Security* (Cambridge: MIT Press, 1995), 334.

¹²⁵ Price implies the same. Price (fn. 6), 614.

TABLE 2
REGIONAL OPPOSITION FOR THE OTTAWA TREATY^a

<i>Region</i>	<i>Total Nonsig- natory States</i>	<i>Total States in Region</i>	<i>% of States Not Signing</i>
Africa	8	48	17
Americas	2	35	6
Asia-Pacific	21	35	60
Europe/Central Asia	4	43	8
Middle East/North Africa	12	17	71

^a State support for the treaty as of March 1999. ICRC, *Landmine Monitor Report 1999: Toward a Mine-Free World* (New York: Human Rights Watch, 1999).

to neorealists, it is easy to achieve an international agreement when no one's interests are threatened or when states do not care deeply about relative gains.¹²⁶ They would argue that perhaps the main reason for the ban is the simple fact that landmines do not win wars and are not essential to many states' national security. Many states did not sign the treaty because they still employ landmines for national security purposes, while many signatory states have relatively little security concerns and thus do not require landmines. Table 2 highlights regional opposition to the ban. In regions where security tensions are high, a greater percentage of states oppose the treaty. For example, in the Middle East, 71 percent of the states oppose the treaty. In comparison, less than 7 percent of states in the Americas, where security tension is relatively low, oppose the treaty. A neorealist would assert that this divergence most likely reflects more stable governments and recognized borders. Furthermore, neorealists do not have to highlight only the general pattern of regional support for the ban. They can point out that South Korea and the United States are hesitant to join the ban because of landmine use in the DMZ.

Neorealists could also argue that since the major powers did not sign the convention, it is meaningless. While most of the smaller and mid-size states support the ban regime, major powers, such as China, India, Pakistan, Russia, and the United States, did not sign because it is not in their interest to do so.¹²⁷ Waltz says that "a general theory of interna-

¹²⁶ Mearsheimer (fn. 124), 346–51.

¹²⁷ Five major states did not sign the Ottawa Treaty for the following reasons—China: to prevent foreign military interference, to maintain national unity, and to protect the well-being of its people; India: to maintain security; Pakistan: to maintain security; Russia: to protect nuclear plants and borders; and U.S.: to preserve security in Korea and to maintain mixed landmine systems. The sources for

tional politics is necessarily based on great powers” and that “so long as major states are major actors, the structure of international politics is defined in terms of them. States set the scene in which, they, along with non-state actors, stage dramas or carry on their humdrum affairs.”¹²⁸

CRITIQUE OF ALTERNATIVE EXPLANATIONS

The neorealist ontology skirts a key issue in international relations: when and under what conditions do issues not originating from states get on the international political agenda? Because neorealism’s ontology privileges states over other international actors, it cannot explain the NGO role in agenda setting, controlling the landmine issue, and encouraging states to sign. Neorealists believe that NGOs themselves are dependent upon underlying power distributions. This article’s main theoretical point is taken from the constructivist approach: state interest and identity formation on the landmine issue are due to the placement of the ban-landmine norm on the international political agenda, and NGOs are able to control and sustain the issue independent of existing state power distributions. Moreover, the reason that states addressed the landmine issue is because NGOs placed it on the international political agenda. In other words, the implication is that if NGOs did not place and control the landmine issue on the international political agenda, states would not even be discussing a ban let alone actually following through with action. Since Waltz posits that the NSA role in international affairs is marginal,¹²⁹ he and other neorealists are unable to explain why states were confronted with the landmine issue in the first place.

People, however, may question the ban’s effectiveness because the major producers did not sign. While it is true that China and Russia did not sign, most of the other major landmine producers have stopped production, belying criticism that only states that did not produce landmines agreed not to sell them. Specifically, in the past few years the number of states producing landmines has:

each respective country are: China: “The Issue of Anti-Personnel Landmines,” China National Defense White Paper, Information Office of the States Council, Peoples Republic of China, July 27, 1998, quoted in *Landmine Monitor Report 1999* (fn. 33), 455; India: “India Calls for International Consensus on Banning Landmines,” *Xinhua English Newswire*, November 15, 1998; Pakistan: BBC Worldwide Monitoring Source, Radio Pakistan, external source, March 17, 1999; Russia: Timothy Heritage, “Russia Rebuffs Calls to Sign Landmine Treaty,” *Reuters*, May 27, 1998, and Michelle Kelemen, “Russia/Landmines,” *Voice of America*, May 27, 1998; U.S.: President Bill Clinton, letter to Marissa A. Vitagliano, acting coordinator, U.S. Campaign to Ban Landmines, August 31, 1998.

¹²⁸ Waltz (fn. 49), 73, 94.

¹²⁹ *Ibid.*, 94–95.

dropped dramatically from 54 to 16. The 38 who have stopped production include a majority of the big producers in the 1970s, 1980s, and early 1990s—those who bear much of the responsibility for the tens of millions of mines now in the ground. Eight of the twelve biggest producers and exporters over the past thirty years have signed the treaty and stopped production: Belgium, Bosnia, Bulgaria, Czech Republic, France, Hungary, Italy, and the United Kingdom. Other significant producers that have signed include Germany, Croatia, Chile and Brazil.”¹³⁰

Even though the major states did not sign the treaty, NGO pressure, enforced by public opinion, encouraged them to implement certain landmine-policy changes unilaterally. Despite their opposition to the treaty, they have instituted policy changes that closely reflect the treaty’s objectives.¹³¹ Such unilateral policy announcements reflect a nonconventional approach to international law, and, in particular, seem to bode well for the potential effectiveness of the regime to ban landmines. These actions, especially from major powers, such as the United States, Russia, and China, are caused by “the failure of the international legal system, coupled with fundamentally changed circumstances since the time when the relevant texts were agreed.”¹³² In the case of the landmine ban, the major powers thought they had unique military responsibilities requiring landmine use; after the signing of the treaty, however, they implemented more restrictive landmine policies thus signaling movement toward supporting the treaty’s objectives.

Another charge against the convention’s effectiveness could be that it does not include extensive verification provisions. While the convention does allow for some minimal compliant procedures in case of state violation, it is a long and torturous process.¹³³ NGOs supported the exclusion of intensive verification provisions in the convention in order to

¹³⁰ *Landmine Monitor Report 1999* (fn. 33), 5.

¹³¹ Five major states changed their landmine policies since the founding of the ICBL in 1991: China instituted a unilateral landmine export moratorium; India supports a ban on all landmine transfers; Pakistan carefully regulates landmine use; Russia instituted a unilateral landmine export moratorium; and the U.S. instituted a unilateral landmine export moratorium, put a cap on landmine stockpiles, and will cease to use landmines in 2006 if alternatives to APLs and mixed munitions are identified and fielded. The sources for each respective country are: China: China National Defense White Paper (fn. 127); India: *Xinhua English Newswire* (fn. 127); Pakistan: Radio Pakistan (fn. 127); Russia: “Yeltsin Affirms Support for Ban on Mines,” *Reuters*, October 29, 1997; and U.S.: “Suspension of Transfers of Anti-Personnel Mines,” U.S. National Defense Authorization Act for Fiscal Year 1993, U.S. Federal Register, vol. 57 November 25, 1992, p. 228, and Clinton to Vitagliano (fn. 127).

¹³² Rosalyn Higgins, *Problems and Process: International Law and How We Use It* (Oxford: Oxford University Press, 1995), 252.

¹³³ Article 8 of the Ottawa Convention addresses “facilitation and clarification of compliance,” but its verification provisions are minimal. Setting aside the arguments that Article 8 may actually entail verification provisions, this essay takes the ICBL point of view regarding the lack of verification in the convention. Jody Williams, “Talk to America,” *Voice of America Radio Service*, December 4, 1998.

attract more states to sign the ban.¹³⁴ NGOs developed and implemented a strategy that called for bringing as many states as possible into the regime to counter major-power opposition. Eliminating verification provisions was intended to reduce states' fears of meddlesome inspections.

The lack of verification provisions in the ban convention could have disadvantages. In a verification-free convention, states may believe that prohibitions can be easily circumvented by cheating and, therefore, might sign the ban but not worry about compliance. Some scholars believe that the lack of verification provisions is the principal problem in many arms-control and disarmament agreements. Without verification provisions, "legal prohibitions of weapons are mere ploughings of the sand."¹³⁵

Despite this argument, however, the Ottawa Convention holds several important advantages for states that do sign. Most states that sign give up nothing they need to defend themselves. State security does not depend on landmines. The existence of a landmine prohibition, however, gives signatory states a solid moral and political basis for criticizing other states' ownership or use of these weapons. While the ban convention cannot ensure that states will abide by the prohibition, it will increase the economic and political costs of using them. States that do not wish to be internationally isolated may thus be dissuaded from producing and using landmines and from maintaining landmine stockpiles.

The fact that so many states signed the verification-free ban convention also indicates a level of universal agreement on banning landmines. It may also suggest that state attraction to signing the ban is contingent upon the destructiveness of the weapon system. For example, states may not be as vulnerable to the negative effects of defection from bans on lower-level conventional weapons, such as landmines, as they would be to bans on nuclear weapons.

IV. CONCLUSION

By transforming the landmine-ban debate from a military and security issue to a humanitarian problem, NGOs created an opportunity to negotiate the landmine issue differently from previous arms-control and disarmament treaties. Changing the issue category also helped NGOs to increase state attention and action toward the landmine issue. For example, noted public policy scholar John W. Kingdon says that that by

¹³⁴ Ibid.

¹³⁵ Geoffrey Best, *War and Law since 1945* (Oxford: Clarendon Press, 1994), 308.

“putting the subject into one category rather than another” helps bring the problem to the attention of those in and around government.¹³⁶ Moreover, opening up the debate to humanitarian issues allows significant access to nontraditional foreign and security policy actors, such as humanitarian and religious groups, into the public policy-making process. Lastly, the debate transformation expanded the scope of conflict about landmine policy, thereby helping to increase the visibility of the issue to policymakers and the public and, in turn, involving them more actively in policy discourse.¹³⁷

At the agenda-setting level of norms, opening the debate to nonmilitary experts, such as Axworthy, Leahy, Mandela, and Princess Diana, allows civilians to become more involved in the process and to engage military leaders directly. It is not surprising, therefore, that President Clinton decided to remain outside the Ottawa Convention process for national security reasons, while addressing the humanitarian aspects of the landmine issue with increased funding for landmine-victim assistance and demining programs.

The article's broader implication is that under certain conditions NGOs can contribute to creating international law, especially legal prohibitions on weapons that are strategically dubious and humanitariously suspect, which, in turn, can effect state behavioral changes. Several unique conditions of the Ottawa Convention process are potentially revealing of the role that NGOs can play in this process. First, the role that victims played in NGO strategies to achieve the ban was a significant factor in drawing international attention to the landmine issue that eventually resulted in state action. Landmine victims, whether in their role as part of statistics and NGO stigmatization strategies or through their personal testimonies at international conferences and in media profiles, were a powerful instrument for NGOs to frame the issue. In fact, the first line of the Ottawa Convention's text says that the purpose of the treaty is “to put an end to the suffering and casualties caused by anti-personnel mines, that kill or maim hundreds of people every week, mostly innocent and defenceless civilians and especially children.”

Looking at other weapons that were banned or severely restricted by the international community, such as biological, nuclear, and chemical weapons, the role of victims in accomplishing the conventions was not as significant, especially when compared with the NGO role in high-

¹³⁶ Kingdon (fn. 56), 21.

¹³⁷ Schattschneider argues that the expansion of conflict signals a healthy democracy because it allows for increased public participation, usually through “responsible leaders and organizations,” into the policy process. Schattschneider (fn. 102), 142.

lighting landmine victims to help achieve the Ottawa Treaty.¹³⁸ It should be noted here that the 1925 Geneva Protocol on Poisonous Gas also partially resulted from “popular demands for a ban” in light of the more than one million gas victims from World War I, albeit victims were not a major factor in achieving the more recent Chemical Weapons Convention, which was “prompted by the use of herbicides and riot control agents during the Viet Nam War.”¹³⁹

The lack of victim participation in the great NGO effort to ban nuclear weapons may explain why it has not been as successful as the landmine campaign in attracting international attention.¹⁴⁰ NGO initiatives in the nuclear weapons campaign were composed primarily of experts arguing from specific legal and medical points of view, which resonated less with public and state representatives than did a parade of civilian victims of that particular weapon *and* NGO experts. Another possible explanation for the failure of the movement to ban nuclear weapons is that banning landmines may not be as important to states as banning nuclear weapons. Violations of a landmine ban would not fundamentally threaten national security, while an undetected violation of a nuclear weapons ban could pose a serious threat.

NGOs primarily focused on the humanitarian aspects of the mine issue, addressing the plight of victims rather than focusing on the military and security implications of the ban. This emphasis is reflected in the convention’s call for state signatories to “provide assistance for the care and rehabilitation, and social and economic reintegration, of mine victims.”¹⁴¹ Since including victim assistance into an arms control or disarmament convention is not standard practice, strong arguments had to be made to include language that “would require states to accept certain affirmative duties toward individuals injured by mines.”¹⁴² For the treaty to accomplish its goal of providing a complete response to the

¹³⁸ While victims were the main framing issue in the Ottawa Landmine Treaty, for biological, nuclear, and chemical weapons, the central framing issues were repugnance, proliferation, and environmental threat, respectively. Convention on the Prohibition of the Development, Production, and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction, 1972, preamble; Treaty on the Non-Proliferation of Nuclear Weapons, 1968; Organisation for the Prohibition of Chemical Weapons, *Chemical Weapons: Basic Facts* (The Hague: Organisation for the Prohibition of Chemical Weapons), 5; Ottawa Treaty (fn. 1), preamble.

¹³⁹ Organisation for the Prohibition of Chemical Weapons (fn. 138), 2, 5. The 1925 Geneva Protocol is officially known as the Geneva Protocol for the Prohibition of the Use of Asphyxiating, Poisonous or Other Gases, and Bacteriological Methods of Warfare.

¹⁴⁰ There are currently three efforts by NGOs to ban nuclear weapons: (1) Abolition 2000: A Global Network to Eliminate Nuclear Weapons, c/o Waging Peace, www.napf.org/abolition2000; (2) Middle Powers Initiative (MPI)—Fast track to Zero Nuclear Weapons, www.napf.org/mpi; and (3) IALANA—Nuclear Weapons: Dismantling by Law, www.ddh.nl/org/ialana.

¹⁴¹ Ottawa Convention (fn. 1), article 6, para. 3.

¹⁴² While the Ottawa Landmine Treaty contained provisions for victim assistance, arms control treaties for biological, nuclear, and chemical weapons did not.

threats presented by landmines, the inclusion of mine-victim assistance was necessary “to prevent mine victims’ permanent inability to function, work, or otherwise participate as productive members of society.”¹⁴³

The NGO role in setting and controlling the landmine issue on the international political agenda also provides a distinctive form of world politics that this article assesses: a collaborative process between moderate states and transnational NGOs—“a new internationalism” that is evident in other settings. This form of world politics provides a process model that could be useful in current and future efforts to promote security, prohibitions, and restrictions. For example, the Coalition to Stop the Use of Child Soldiers is currently attempting to attach to the Convention on the Rights of the Child an optional protocol banning the recruitment and participation of child soldiers. After eight years of negotiations, on January 21, 2000, governments, including the United States, agreed to ban the use of soldiers under the age of eighteen in armed conflicts but not ban the recruitment of soldiers under eighteen.¹⁴⁴ Because the issue is being negotiated in a consensus-negotiating forum, the United States and other states are able to block the adoption of eighteen as the minimum age for voluntary recruitment. United States opposition is based on “concerns over whether setting the minimum recruitment age at 18 would compromise national security or limit sovereignty.”¹⁴⁵ Most likely, the NGO coalition and state allies will be forced to mirror the NGO landmine campaign by taking the issue out of a consensus forum and creating a negotiating forum more open to NGO agenda control.

Another effort that evinces this distinctive form of world politics is the Global Campaign on Small Arms and Light Weapons. The campaign is composed of NGOs and seeks to address the problems caused by the proliferation and misuse of small arms and light weapons. The distinctive form of world politics evidenced by the landmine campaign “provided the foundation” for this effort to alleviate the effects of “the widespread availability of light weapons.”¹⁴⁶ Again, because of concerns among states, NGOs may also have to take these negotiations out of any state consensus-based forum.

The article’s findings provide an explanation both for why the landmine-ban issue was absent from the international political agenda

¹⁴³ Jerry White and Ken Rutherford, “The Role of the Landmine Survivors Network,” in Cameron, Lawson, and Tomlin (fn. 6), 113.

¹⁴⁴ U.S. Campaign to Stop the Use of Child Soldiers, <http://www.us-childrensoldiers.org>>U.S. Policy.

¹⁴⁵ Mike Wessells, “Child Soldiers,” *Bulletin of the Atomic Scientists* 53 (November–December 1997), 39.

¹⁴⁶ Liz Clegg, “NGOs Take Aim,” *Bulletin of the Atomic Scientists* 55 (January–February 1999), 49.

before the ICBL's founding in 1991 and for why it drew the rapid attention once it materialized. Its findings are significant for larger concerns in political science. It sheds light on a few conditions under which NGOs can affect state behavior in an area traditionally at the heart of state sovereignty—security and weapons. Importantly, it shows why many states were attracted to the landmine-ban issue. In this article, any arguments that states signed the treaty because of the NGO agenda-setting role are hypothetical. Nevertheless, the article shows why states were motivated and pressured by NGOs to address the landmine issue.

Meanwhile, the international legal community should be interested in the article's findings because it provides a process model for current and future NGO-state collaborative efforts to alleviate the negative effects of certain weapons, especially those with a dubious military utility. Since the landmine-ban norm originated at the substate level and not with major state powers, the rise of the landmine-ban norm may help explain why particular issues take off. This point leads us to probe further and ask if the emergence of the landmine-ban issue says something more generally about international law and relations.

The article also suggests that that NGOs can be productive players in the evolving arms-control agenda by identifying weapons or other security practices that are contrary to humanitarian principles. For example, NGOs can help target weapons currently in development in order to reduce political opposition and lower implementation costs. Perhaps there also should be a clearer obligation for states to review their weapons currently online. NGOs can be integral to this process by identifying these weapons, and placing and controlling the issue on the international political agenda. Finally, the NGO role in placing the landmine issue on the international political agenda and controlling it once it got there suggests ways that international society can address uncontrolled weapons proliferation and use in a timely and unified manner.