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**"MILITARY NECESSITY VS. CONGRESSIONAL AND PUBLIC PRESSURE"
- - LANDMINES AND THE PRESIDENTIAL DILEMMA**

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**“Military Necessity vs. Congressional and Public Pressure”
- - Landmines and The Presidential Dilemma**

In May 1996, President Clinton announced to the UN General Assembly that the United States intended to lead the effort to achieve a worldwide ban on the use of landmines as soon as possible. On 17 January 1997, President Clinton again reiterated this position when he announced that the United States would seek to initiate negotiations on a worldwide treaty banning the use, production, stockpiling, and transfer of anti-personnel landmines.¹ In sharp contrast, we now jump ahead to 18 September 1997, where President Clinton announced that the United States would not join over 100 nations scheduled to meet in Ottawa in December to sign a treaty to ban landmines.² The obvious question is what happened and why.

The purpose of this paper is to describe the key elements of the decision process, which led President Clinton to his decision not to support the Ottawa treaty. There were obviously a large number of agencies, organizations and individuals involved in the process, however, this paper will focus on the three key players which had the most significant impact on the President's decision: Congress, non-governmental organizations (NGOs) and the Department of Defense (DOD). Presidential support for the Ottawa talks and a total ban on landmines would appear to be easy to justify based on humanitarian and political concerns, however, it was not an easy decision. The President believed the existing UN Conference sessions were a more productive long term approach, but this was clearly in conflict with the more popular total landmine ban movement. Ultimately, despite strong efforts by Congress, and an extremely aggressive international campaign by NGOs, The President decided that he simply had to support the DOD position that landmines as currently employed in Korea are still a military necessity. The process that led to this controversial policy decision was nontraditional in many ways.

The Landmine Issue

A short review of background information is necessary to facilitate the follow on discussion. There is unanimous agreement that there is a terrible problem with unexploded landmines scattered throughout the world. Authorities estimate that there are over 100 million landmines buried in 68 countries, and 26,000 innocent civilians are killed or maimed by these mines each year.³ The key issue in the landmine debate is what is the most expedient way to

alleviate the widespread employment of landmines and the needless tragedies. The President announced in January 1997 that the U S would pursue a ban on landmines through the UN Conference on Disarmament (CD) process based in Geneva, and would not participate in the Ottawa initiative which is supported by over 100 nations. DOD supported the CD process while the majority of Congress and the most vocal NGOs supported the Ottawa initiative.

Critics of the CD process argue that it is notoriously slow moving and will not result in any significant action for at least 4-5 years (if at all), and that this is simply a stall tactic by DOD and The President. The President initially supported the CD process based on the position that even though it is slower, it will result in a true global ban since it is the only forum where the world's largest users and exporters of landmines (Russia, China, India, Pakistan, North Korea and Israel) are present. Note: The President ultimately decided to send participants to Oslo to participate in the Ottawa negotiations in September 1997, however, U S negotiators departed after they were unable to secure key U S exceptions.

Pressure by Congress

Congressional actions related to the landmine issue could be characterized as the most traditional of the three key players, and as basically in accordance with accepted protocol and procedures. Senator Patrick Leahy (D, VT) is the uncontested leader of Congressional efforts to ban landmines. He first became involved in landmine legislation in 1989 after visiting several third world countries and meeting innocent victims of landmines. Senator Leahy's initial efforts focused on acquiring funds for the victims to rebuild their lives, but his involvement grew in 1989 when representatives of American Veterans of Vietnam approached him and requested that he sponsor successful legislation to ban the export of landmines. Senator Leahy has remained involved in landmine issues and is now the primary sponsor for pending legislation, which would halt new deployments of anti-personnel landmines (APL) after 1 January 2000. The Leahy APL bill was introduced to the Senate on 12 June 1997 and was primarily designed to pressure The President to participate constructively in the Ottawa initiative.⁴

Although the Leahy APL bill has never actually been voted on by the Senate, it has been the subject of considerable debate. Senator Leahy's first step was to attempt to build bipartisan

support by asking Senator Chuck Hagel (R. NE) (who was himself wounded by a landmine in Vietnam) to co-sponsor the bill. Senator Leahy and Senator Hagel then distributed the proposed APL legislation to all Senators in March 1997 and asked them to co-sponsor the bill in an attempt to build immediate and overwhelming support. This effort was highly successful and when finally introduced to the Senate, the bill was co-sponsored by 57 Senators (42 democrats and 15 republicans). The stated intent was to attach the APL bill as an amendment to the FY 1998 Defense Authorization Bill. As stressed by Senator Leahy during presentation of the APL bill, the co-sponsors included all six Vietnam veterans serving in the Senate.⁵

Although most Senators undoubtedly co-sponsored the APL bill due to genuine humanitarian concerns, a great deal of effort and time was expended by Senator Leahy's staff in an attempt to gain the support of some of the borderline co-sponsors. Senators who did not initially agree to co-sponsor the APL bill were contacted several times by Senator Leahy's staff, and where possible they attempted to work out "quid pro quo" arrangements on other pending issues. As an example, the staff of one Senator who did not initially co-sponsor the APL bill noted that the issue had "political considerations" in that they wanted Leahy's support on pending legislation for a drug certification waiver for Columbia. The Columbia legislation was ultimately deemed not winnable by the staff based on input from the State Department, and the discussion was dropped.⁶

Once accepted by the Senate, the APL bill was referred to the Senate Foreign Relations Committee and its Chairman, Senator Jesse Helms (R, N C). At this point, Senator Leahy focused his efforts on Senator Helms and the President Pro Tempore, Senator Strom Thurmond (R, S C). The reasons for focusing on these Senators are clear. Regardless of the number of Senators who supported his position, Senator Leahy knew that the APL bill would never clear the Foreign Relations Committee unless approved by Senator Helms. Senator Thurmond as the President Pro Tempore (majority leader) also had the ability to stop the APL bill through normal procedures and was the Chairman of the powerful Senate Committee on Armed Services.

Despite constant efforts, to include several additional letters of explanation in response to critiques of the legislation, Senator Leahy never did convince either of these powerful gentlemen

to support his efforts. He was able to convince four additional Senators to support the APL bill, but Senator Helms remained adamantly opposed to the legislation and it remains in committee as of today. Senator Helms ultimately sent a letter out to all Senators, which outlined his personal opposition to the APL bill, and even attached copies of letters from senior DOD officials in opposition to the legislation.⁷ Note: The DOD letters will be addressed in more detail later in this article.

Despite his inability to get the APL bill out of committee, Senator Leahy still continued to pressure The President to participate in the Ottawa initiative. At his request, 164 House members sent an open letter to The President expressing their bipartisan support for the Ottawa initiative. In addition, Senator Leahy met with The President's National Security Advisor Sandy Berger and Secretary of State Madam Albright several times in an attempt to gauge the administration's position and gain their support. Sources inside the administration indicate that Madam Albright ultimately joined with Senator Leahy in urging support for the Ottawa talks. Leahy aides also met with Vice President Gore's staff several times to stress that given the support from Congress and the public, the President should at least enter the Ottawa talks.⁸

International Campaign by Non-Governmental Organizations

In 1992, non-governmental organizations (NGOs) were credited with almost single-handedly setting the stage for the negotiation of the global climate treaty, and the conduct of a worldwide Earth Summit in Rio de Janeiro. These events were noteworthy in that NGOs were able to accomplish in 16 months what governments had failed at during many years of debate and false starts. In an article in the *Washington Post*, Jessica Mathews refers to this transfer of real power from the legitimate governments to NGOs as the "power shift" and a "new private order." Ms. Mathews also notes that the process is today happening again - - as the world moves to ban APLs.⁹

The significant role played by NGOs in the campaign to ban APLs is unprecedented in the United States. Although members of Congress did get involved in the issue, the campaign to ban APLs was clearly led and coordinated at the international level and in the United States by a NGO coalition known as the International Campaign to Ban Landmines (ICBL).

The ICBL began in 1992 when a group of international NGOs and humanitarian organizations joined together with the stated goal of the total elimination of APLs. The ICBL was established by Ms. Jody Williams for the Vietnam Veterans of America Foundation, Washington, DC, and Medico International, Frankfurt, Germany. Over the last five years, the ICBL has grown dramatically. It now has a steering committee of nine international organizations and includes over 750 organizations in 45 countries around the world.¹⁰ United States participation in the ICBL is coordinated by the U.S. Campaign to Ban Landmines, a coalition of more than 250 anti-mine groups. Organizations in the coalition include the American Medical Association, Physicians Against Landmines, Human Rights Watch, the Catholic Campaign to Ban Landmines, Vietnam Veterans of America, Demilitarization for Democracy, The Red Cross, and the Friends Committee on National Legislation.

The ICBL ultimately built widespread support for the APL ban and then organized and hosted the first meetings of "like minded" nations. This series of meetings led the Canadian Government to call for a strategy conference of pro-ban governments in October 1996 in Ottawa. The first conference was attended by 50 pro-ban nations and 24 observer nations.¹¹ Follow-on conferences were conducted throughout 1997, with the final conference scheduled in December 1997 at Ottawa to sign the treaty in support of a total APL ban.

The ICBL and its widespread coalition of NGOs initiated an extensive campaign in 1997 to persuade The President that he must participate in the Ottawa talks and support an immediate and total ban of APLs. The basic ICBL position was that as the world's largest military power, the U.S. must shoulder its world leadership role and could not afford to not be part of the first international treaty to ban APLs.¹² Efforts to gain U.S. participation in the Ottawa talks included extensive lobbying of Congress, periodic articles in all major newspapers and publications, rallies at numerous photogenic locations such as the U.S. Capitol steps, and an eight city U.S. tour. A tremendously high profile publicity event occurred on 15 May 1997 when Congressman James McGovern announced on the floor of the House of Representatives that he was nominating the ICBL and its coordinator, Ms. Jody Williams, for the 1997 Nobel Peace Prize.¹³ This nomination and the subsequent award of the Nobel Peace Prize to Ms.

Williams and the ICBL generated immense publicity and support for the APL ban campaign

The ICBL also generated additional publicity by launching a "stigmatization" campaign against 30 of 47 U S companies who did not agree to or did not respond to certified letters demanding that they renounce future production of APLs, their components or delivery systems 17 U S firms who previously produced mine components (to include Motorola) avoided the stigmatization effort by pledging in advance to forsake future mine component production ¹⁴

It is important to note that in addition to the ICBL, the International Committee of the Red Cross (ICRC) played a key supporting role in creating the successful international campaign to ban landmines. Although notoriously reluctant to take sides in politically controversial issues, ICRC joined the call for a total ban in 1994 and has remained aggressively engaged in the issue to date. The ICRC program to ban landmines consists of four components: diplomatic and legal initiatives to include the hosting of global and regional seminars from 1994-1996, active participation in all phases of the Ottawa talks, a research and public information campaign anchored by the ICRC Web Site, and public service announcements in 45 nations ¹⁵

One additional event that played a significant role in the NGO campaign to ban landmines was the tragic death of Princess Diana of Wales. Princess Diana was a tireless proponent of the landmine ban, and photos of her with landmine victims in Bosnia were regularly shown during the days of mourning following her death. Her very public participation in the campaign caused a flurry of editorials in support of the ban while she was alive, and the pressure increased tremendously in the two weeks following her death. Several of The President's political advisors noted the symbolic importance of the Ottawa treaty after the death of Princess Diana, and "urged him to find a way for the United States to sign the treaty" ¹⁶ The importance of this event was reiterated by Robert Bell, an expert on arms control at the NSC when he stated, "in death as in life, Princess Diana has had an extraordinary impact on the efforts to halt the spread of landmines" ¹⁷ The timing of Princess Diana's death just prior to the final Ottawa planning conference, and a publicity blitz by ICBL ultimately convinced President Clinton that he must take action. The President announced on 15 September 1997 that he would send negotiators to Oslo to try and work out a compromise that would allow it to sign the Ottawa treaty

Department of Defense Involvement

Given the strong pressure from some members of Congress and the intense international campaign by NGOs, The President was no doubt feeling pressure to join the Ottawa talks, however, a strong and vocal counterbalance to this position did exist - - DOD DOD's role in the APL policy debate was more aggressive and public than one would normally expect In many ways, DOD almost functioned as a "public interest group " Supporters for and against the APL ban and participation in the Ottawa talks viewed military personnel as subject matter experts and eagerly courted their support at every opportunity

DOD first became involved in the landmine issue in 1993 as a member of the NSC directed Interagency Working Group on Landmines Between 1993 and 1996, DOD and the U S government initiated numerous programs to reduce the availability and employment of landmines worldwide, however, they still considered landmines to be a critical "combat multiplier" and necessary weapon in certain cases DOD's basic argument against the total and immediate APL ban as proposed in the Ottawa talks was threefold the U S had already agreed to no longer use non-self destructing (NSD) APLs except to defend against armed aggression across the Korean DMZ (nonavailability of the NSD APLs was projected to increase U S casualties by 32% in case of an attack), other comparable weapons had not been developed to replace the loss of the NSD APLs in Korea, and the ban on all APLs would render unusable the most modern U S mine systems which contained a mix of anti-tank and self-destructing APLs (those that self destruct within a set time and do not create a civilian hazard) ¹⁸

Ironically, the first nontraditional involvement of the military in the debate was orchestrated by the ICBL On 3 April 1996, The New York Times printed an open letter to The President urging the total elimination of APLs The letter was signed by 15 retired General Officers, to include General Schwarzkopf and General Galvin, and was a total surprise to the Pentagon ¹⁹ The signatories were subsequently briefed by CJCS/VCJCS on the DOD position and why the U S use of SD APLs was not part of the humanitarian problem

Subsequent DOD involvement in the APL ban controversy prior to 13 June 1997 was conducted in the traditional manner with the Joint Staff as the lead The Joint Staff coordinated

and provided briefings to the NSC, NGOs, members of Congress, and key personnel in other government agencies as requested. With the introduction of Senator Leahy's bill to the Senate, the role of DOD changed dramatically. As stated by a member of the Joint Staff, "the NSC realized they needed someone to sell The President's position, and instructed us (Joint Staff) to go hot with our opposition to the Ottawa ban on APLs."²⁰

DOD's role at this point changed from that of subject matter expert to one of full participation in defense of The President's position. The DOD General Counsel first sent a letter to Senator Leahy outlining why the proposed legislation was unnecessary and incorrectly drafted.²¹ General Shalikashvili (CJCS) and General Reimer (CS, Army) then sent letters to Senator Thurmond (majority leader) and Senator Levin (minority leader) which emphasized the increased risk to U.S. soldiers and their specific concerns about the legislation.²² As mentioned earlier, Senator Helms attached these letters to a personal letter he later mailed to all Senators. Ultimately, the Joint Staff solidified support for their position by providing follow-on briefs to all members of the Armed Services and Foreign Relations Committees.

The willingness of DOD to go public on this issue reached unprecedented levels less than a month later when the Pentagon published an open letter to Senator Thurmond which again outlined in detail opposition to the pending APL legislation. The unprecedented aspect of the letter is that all six members of the Joint Staff and all 10 regional CINCS signed it.²³ This "64 Star Letter" and a follow-on letter from 23 retired Generals were both provided to all members of the Senate in a cover letter from four Senators staunchly opposed to the legislation.²⁴

DOD efforts were obviously successful in relation to Congress. As previously noted, the APL legislation proposed by Senator Leahy remains in Committee at this time and no action is expected. This point notwithstanding, the NGOs were still challenging the DOD position, demanding support for a total ban on all APLs, and placing tremendous public pressure on The President to sign the Ottawa treaty. As a result, DOD was continuously attempting to explain their position and justify their seemingly inhumane support for APLs. The frustration in sharing concern over a problem, and yet trying to prevent others from signing up for a bad solution was

noted by former Chairman General Shalakashvili several weeks before his retirement

“the United States is not the bad guy in this debate the Defense Department earlier unilaterally acted to eliminate dumb mines from the inventory and has already spent an estimated \$125 million to help beleaguered, mine infested countries to rid themselves of this menace I challenge anybody else to show how much they have done Yet somehow we’ve managed to run the argument around making us the bad guys on this issue ”²⁵

As other Nations continued to prepare for the final Ottawa negotiations (without the U S), it became clear to the general public that the President was determined to support the military

As pointed out by the Center for Security in a policy brief,

"only the determination of the Joint Chiefs of Staff appears to be preventing capitulation on the part of the Clinton Administration and the Congress to the campaign to immediately ban all U S use of anti-personnel landmines campaign leaders quoted both President Clinton and Vice President Gore as stating in private conversations that, they could not politically afford to break with the Joint Chiefs on this issue ”²⁶

Statements such as this could be interpreted in two different ways the President was in total agreement with the JCS on a politically difficult but principled position, or the comments were calculated to increase pressure on the JCS to abandon their position

Regardless of the interpretation, The President did finally conclude that the UN CD process was not working, and he dispatched negotiators to Oslo in September to join the talks During the negotiations, the U S attempted to get concessions that would allow for an exception in Korea and a nine year delay in carrying out the treaty After a week of fruitless negotiations, the President called the CJCS to discuss the stalemate ²⁷ The CJCS informed the President that his position had not changed, and on 18 September 1997, the President announced that the U S would not sign the Ottawa treaty in December The President's final efforts indicate a desire to work out a political compromise, and yet in the final analysis, he was not ready to endanger the security of the United States

Conclusion

President Clinton faced a tough policy decision in 1997. As the leader of the only remaining world super power, he had consistently and forcefully pledged U.S. support for the total elimination of landmines. In addition, over 100 nations were currently participating in the Ottawa initiative to implement a total landmine ban by December 1997, and supporters were demanding participation by the United States. Yet, the U.S. military insisted that landmines were still required in Korea to ensure national security, and that agreement to a total ban would needlessly take the humane and safe self-destructing landmines out of the U.S. inventory.

The battle over the U.S. landmine policy was fought on center stage by a diverse group of participants throughout 1997. The three key players in this process were the Congress, NGOs, and DOD. The majority of the Senate supported the Ottawa initiative and introduced legislation to pressure The President to participate in the treaty ban. The role of the Senate was important and provides an interesting snapshot of the power struggles and legislative process on Capital Hill, however, Senate efforts were clearly overshadowed by the powerful and non-traditional role of NGOs and DOD. NGOs forced the landmine ban issue to the front burner in the U.S., and then maintained a wave of constantly increasing pressure which ultimately forced the President to join the Ottawa negotiations during the ninth hour. In contrast, DOD was forced into the role of a quasi "public interest group" and went on the attack to explain to Congress, the public and the President that a total ban would seriously damage U.S. national security.

Ultimately, The President decided that landmines were still critical to U.S. national security and we did not join the 125 other nations who signed the landmine ban treaty in Ottawa on 3 December 1997. While the final result is important, the more interesting aspect of the landmine policy debate is the increased public role and power of NGOs and DOD. Clearly the traditional policy development process rules have changed.

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