



ISSUE BRIEF: U.S. POLICY ON LANDMINES

Anti-personnel landmines are "designed to be exploded by the presence, proximity or contact of a person and that will incapacitate, injure or kill one or more persons." As they are not able to distinguish between civilians and combatants, are hard to safely destroy or remove, and often fail to self-destruct or self-deactivate, landmines continue to inflict suffering long after a conflict ends.

Current U.S. Policy on Landmines

Since the ratification of the Mine Ban Treaty in 1997, there has been a global consensus against the use of anti-personnel landmines (APLs). Today 164 countries are party to the Mine Ban Treaty, representing over 80 percent of the world's states, and for the past six years the U.S. military has been prohibited from producing or acquiring APLs. In January 2020, the White House acted counter to that consensus by announcing a *revised policy on the use of landmines*. This new landmine policy cancels the *2014 policy on landmines*, which had prohibited the U.S. military from producing or acquiring APLs or employing them outside of the Korean Peninsula and set the goal of the United States joining the 1997 Mine Ban Treaty. The administration's new policy includes several key points:

- The U.S. military can employ, develop, produce, or otherwise acquire landmines.
- The U.S. military do not have any geographic limitations on the deployment of landmines.
- Military Combatant Commanders have the authority to use landmines without further approval by the President or Secretary of Defense, moving the decision out of the hands of the military's civilian leadership.

Under this new policy, the U.S. will join a handful of countries that have refused to stop using and producing landmines: China, Cuba, India, Iran, Myanmar, North Korea, South Korea, Pakistan, Russia, Singapore and Vietnam. Between October 2015 and 2019, only the government forces of Syria, Myanmar, and North Korea, as well as non-state actors in conflict areas, have used landmines.

Background on Landmines

Types of Anti-personnel Landmines

- A blast landmine is designed to injure the lower extremities of the victim, often leading to amputations.
- A directed fragmentation landmine propels hundreds of pieces of metal shrapnel into the victims.
- A bounding fragmentation landmine first springs three feet off the ground before exploding at the height of an adult's waist or a child's head. These fragmentation mines cause deep wounds, infections, destroyed limbs, burns, loss of sight and hearing, severe blood loss, and decapitation.

"Persistent" versus "Non-Persistent" Anti-personnel Landmines

In justifying this dramatic policy shift, the Department of Defense makes the dangerously misleading distinction between "persistent" and "non-persistent" landmines, despite the *documented failures* of self-destruct and self-deactivation features. The *Government Accountability Office* (GAO) found that "smart mines" deployed in the Gulf War failed at a rate 150 times higher than the Department of Defense had reported. The same GAO report found that 6 percent of U.S. Gulf War casualties were caused by land mines. Given failure rates of such mechanisms, there remains a serious concern that self-deactivated but not self-destructed landmines' explosive materials can provide material for Improvised Explosive Devices (IEDs) used against U.S. forces and civilians. As of May 2019, IEDs caused *47 percent of all U.S. deaths* in Iraq and Afghanistan.

Additionally, mine fields are no longer carefully mapped or marked. Instead, they are often scattered by aircraft and artillery over unmarked terrain, on the assumption that the self-destruct and self-deactivation mechanisms make the land safe after a designated time span. This creates further danger for civilians and aid workers who have no way of knowing whether they are in or entering a minefield.

Regardless of self-destruct and self-deactivation mechanisms, landmines remain by nature indiscriminate, unable to distinguish between civilian and combatant.

Why Ban Landmines?

Ineffectiveness

In 1995, Former Marine Corps Commandant General Alfred Gray, Jr., *said*, “We kill more Americans with our own mines than we do anyone else. [...] I know of no situation in the Korean War, nor [...] in Southeast Asia, nor in Panama, nor in Desert Storm-Desert Shield where our use of mine warfare truly channelized the enemy and brought them into a destructive pattern.” A 2002 report by the GAO on the ‘U.S. Use of Land Mines in the Persian Gulf War’ found that the Defense Department did not provide any data to indicate, either directly or indirectly, that the U.S. landmine use caused any enemy casualties, equipment loss, or maneuver limitations.

Restrictions on U.S. Troop Mobility and Fratricide Concerns

In 1997, former commander of U.S. forces in Korea, Lt. General James Hollingsworth *said* that antipersonnel landmines’ “minimal” utility to U.S. forces is “offset by the difficulty ...[they] pose to our brand of mobile warfare... Not only civilians, but US armed forces, will benefit from a ban on landmines. U.S. forces in Korea are no exception.” Nearly a decade later in 2014, retired Lt. Gen. Robert G. Gard, Jr. *said* that use of “high tech land mines” was “counter-productive” because such mines “impeded the maneuverability of our attacking units, slowed their operational tempo and inflicted casualties on our own troops.” *The 2002 GAO report* also found that US commanders were reluctant to use mines because of their impact on mobility, their potential for fratricide, and other safety concerns.

Civilian Casualties

Landmines are indiscriminate weapons that disproportionately impact civilians, and especially children. From 1999 through 2018, there have been 130,755 *reported casualties from landmines* and other explosive remnants of war (ERW), though the true number is likely much higher as accurate data is difficult to gather. *According to UNICEF*, as a result of the conflict in Donbass, eastern Ukraine is now one of the most mine-contaminated places on earth with some of the highest casualty rates, endangering over 400,000 children who live in the highly contaminated zone along the ‘contact line’. According to the 2019 Landmine Monitor:

- Children were at least 54 percent of all civilian casualties from landmines and ERW in 2018, an increase of 7 percent from 2017.
- In 2018, there were 851 child casualties from landmines and ERW in Afghanistan alone.
- Civilians accounted for 71 percent of landmine casualties in 2018.

Compliance with International Law and Practice

Following the conflicts of the waning years of the Cold War, the growing number of civilian and peacekeeper casualties from APLs forced the international community to reassess the use of such munitions. The United States was one of the first governments to call for a comprehensive ban on APLs, in 1996 introducing a U.N. resolution calling for an international agreement to end their use. The Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction, also referred to as the Ottawa Convention or the Mine Ban Treaty, was adopted in 1997. The 164 countries party to the Mine Ban Treaty are required to:

- Not develop, produce, acquire, use, retain, stockpile, or transfer APLs, or assist others in such actions.
- Destroy all current stockpiles of APLs.
- Identify and clear all mined areas under their jurisdiction or control within 10 years.
- Assist other states in clearing and destroying mines, if able, and provide assistance to landmine victims.
- Report annually to the U.N. the numbers, types, and locations of any landmines under their control, and the status of efforts to destroy any landmines under their control.

While the United States led the charge for such a treaty and participated in the Ottawa Process leading to the creation of the Mine Ban Treaty, it has yet to sign the Treaty.

Actions for Congress:

- Prohibit the expenditure of appropriated funds to implement this new policy.
- Enact a statutory ban on development, production, acquisition, use, retention, stockpiling or transfer of APLs
- Urge the President to submit the Mine Ban Treaty for the consent of the Senate and to join the Treaty.