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In 2014, the Obama administration announced that the United States would almost entirely adopt the global ban on antipersonnel mines, despite longstanding military and political opposition. To explain this puzzling outcome, I expand upon recent accounts of rhetorical entrapment in which norm-promoting actors seek to compel change in a target actor by exploiting tensions between the target’s words and actions. Tracing US policy change over the past 25 years, I show how transnational civil society and domestic political elites strategically deployed factual and normative claims to draw US officials into an iterative debate concerning the humanitarian harm of antipersonnel mines. Successive US administrations have sought to mitigate external critique by gradually conceding to the discursive framing of pro-ban advocates without endorsing the international treaty prohibiting the weapons. These rhetorical shifts stimulated a search for alternative technologies and incremental changes to military doctrine, tactics, and procurement that constrained US policy choices culminating in the effective abandonment of antipersonnel mines despite ongoing military operations around the globe.

In 2014, the United States announced that it would eliminate antipersonnel (AP) landmines from its military arsenal, with the exception of its ongoing security commitments on the Korean Peninsula.¹ President Obama further committed “to continue to work to find ways that would allow us to ultimately comply fully and accede to the Ottawa Convention,” the 1997 international legal instrument eliminating the weapons also known as the Mine Ban Treaty (MBT).² With these acts, the administration sought to reverse long-standing US opposition to the global landmine prohibition. Yet the US has not formally acceded to the MBT has therefore adopted its norms without a commensurate international legal obligation.

¹ United States of America, “Statement by Ambassador Griffiths, United States Embassy Maputo,” (Third Review Conference of the Antipersonnel Mine Ban Treaty, Maputo, Mozambique, June 27, 2014), http://www.maputoreviewconference.org/fileadmin/APMBC-RC3/friday/13_HIGH_LEVEL_SEGMENT_-_United_States.pdf; United States of America, “FACT SHEET: Changes to U.S. Anti-Personnel Landmine Policy” (White House, Office of the Press Secretary, September 23, 2014), <https://obamawhitehouse.archives.gov/the-press-office/2014/09/23/fact-sheet-changes-us-anti-personnel-landmine-policy>.

² Barack Obama, “Remarks by the President at Clinton Global Initiative” (White House, Office of the Press Secretary, September 23, 2014), <https://obamawhitehouse.archives.gov/the-press-office/2014/09/23/remarks-president-clinton-global-initiative>.

How did the US go from prominent opponent of the AP mine ban to almost entirely endorsing its provisions? This is an important question for International Relations scholars since it is widely expected that the US both shapes major institutions and is especially well-placed to resist legal and normative constraints it finds objectionable.³ The AP mine ban emerged during the so-called “unipolar moment” of the early post-Cold War period but the diplomatic process and outcome defied US demands. While the US grudgingly participated in the negotiations, it refused to endorse the final treaty which did not include exemptions for its own weapons. Subsequent US adaptation thus poses a puzzle since the US, as the only state with global military commitments, should be especially keen to preserve flexibility regarding the use of force.

Prominent materialist and sociological accounts cannot adequately explain the transformation in US antipersonnel mine policy over time. Arguments that the changing character of war render AP mines irrelevant are incomplete because they overlook the fact that the US military habitually opposes the elimination of weapons systems and continues to envision a role for AP mines despite a pronounced shift towards high-technology warfare. Explanations that rely on persuasion of the target actor via forms of argumentation and deliberation are also unsuitable as American policymakers were well informed about the humanitarian issues concerning AP mines.⁴ Interactions between US officials and mine ban advocates thus do not exhibit the characteristics of a novice being inducted into a dominant knowledge claim or a neutral exchange of ideas aimed at producing a reasoned consensus over the problem and its appropriate solution.

³ William C. Wohlforth, “US Leadership and the Limits of International Institutional Change,” *International Journal* 62, no. 2 (Spring 2012): 415–21.

⁴ Thomas Risse, “Let’s Argue!’: Communicative Action in World Politics,” *International Organization* 54, no. 1 (Winter 2000): 1–39; Ian Johnstone, *The Power of Deliberation: International Law, Politics and Organizations* (New York: Oxford University Press, 2011).

I contend that the concept of *rhetorical entrapment* more effectively captures the timing, process, and outcomes of US antipersonnel mine policy over the past 25 years.⁵ This account is closely related to notions of rhetorical action or rhetorical coercion in which actors strategically deploy arguments in an attempt to compel their target to accept their preferred discursive framing, and thus embodies a synthesis of instrumental and normative logics of action.⁶ Rhetorical entrapment involves efforts by norm-promoting actors to exploit tensions between a target actor's words and actions and draw the target into an ongoing debate on the external advocate's own terms. Successful rhetorical entrapment initiates an iterative cycle where the target actor must repeatedly defend its shifting position against external critique, limiting the scope of acceptable discourse and stimulating policy changes that can be portrayed as enhancing conformance with the referent standard. Importantly, rhetorical entrapment does not assume persuasion: change occurs when a target's existing policy is no longer defensible amongst a peer group, raising the social costs of non-conformance, and not through the alteration of the underlying beliefs of individuals or groups.

This article contributes to the further elaboration of rhetorical entrapment in global politics by demonstrating its operation in a hard case of international security governance. My principal contribution is to show how the United States has been constrained through rhetorical practices, and how specific claims have been deployed and subsequently shaped the policymaking process. Prominent treatments tend to focus on efforts targeting

⁵ Thomas Risse and Kathryn Sikkink, "The Socialization of International Human Rights Norms into Domestic Practices: Introduction," in *The Power of Human Rights: International Norms and Domestic Change*, ed. Thomas Risse, Stephen C. Ropp, and Kathryn Sikkink (Cambridge: Cambridge University Press, 1999), 27–28; Margarita H. Petrova, "Rhetorical Entrapment and Normative Enticement: How the United Kingdom Turned From Spoiler Into Champion of the Cluster Munition Ban," *International Studies Quarterly* 60, no. 3 (September 2016): 387–99; Jean-Frédéric Morin and E. Richard Gold, "Consensus-Seeking, Distrust and Rhetorical Entrapment: The WTO Decision on Access to Medicines," *European Journal of International Relations* 16, no. 4 (December 2010): 563–87.

⁶ Frank Schimmelfennig, "The Community Trap: Liberal Norms, Rhetorical Action, and the Eastern Enlargement of the European Union," *International Organization* 55, no. 1 (Winter 2001): 47–80; Ronald R. Krebs and Patrick Thaddeus Jackson, "Twisting Tongues and Twisting Arms: The Power of Political Rhetoric," *European Journal of International Relations* 13, no. 1 (March 2007): 35–66.

comparatively weaker actors; the United States is rarely the subject of analysis.⁷ And while rhetorical coercion may utilize various forms of discourse, the importance of international law as a distinctive—and distinctly potent—form of claim-making has received less attention. I focus on the legalised nature of rhetorical entrapment and its impact and distinguish this mechanism from other potential explanations like material coercion or persuasion. Yet this study deviates from the most common approach to evaluating norm progress via the ratification of or accession to a multilateral treaty.⁸ Despite its refusal to join the MBT, the treaty has served as a key reference point against which US policy has been justified and assessed. This article thus offers a detailed account of how processes of stigmatization surrounding global norms can shape the behavior of even non-member states.

Theoretically, I argue that international legal practices constitute the necessary shared social setting to enable rhetorical action at the international level and specifically against a preeminent power like the United States. The US is deeply embedded in the international legal order and has a comparatively strong record of adherence to international rules and norms. Its hegemonic position is sustained by legitimacy rather than brute coercion which leaves it vulnerable to forms of social pressure based on widely accepted international standards. US warfare is characterized by its extensive legalization and emphasis on technological supremacy and US officials are sensitive to criticism concerning their uses of armed force.⁹ The US's prior acceptance of (most) international legal restraints on warfare thus provides a range of discursive resources for interrogating and challenging its policies.

⁷ An important exception is Kathryn Sikkink, "The United States and Torture: Does the Spiral Model Work?," in *The Persistent Power of Human Rights: From Commitment to Compliance*, ed. Thomas Risse, Stephen C. Ropp, and Kathryn Sikkink (Cambridge: Cambridge University Press, 2013), 145–63.

⁸ Giovanni Mantilla, "Conforming Instrumentalists: Why the USA and the United Kingdom Joined the 1949 Geneva Conventions," *European Journal of International Law* 28, no. 2 (May 2017): 483–511; Petrova, "Rhetorical Entrapment and Normative Enticement."

⁹ Stephanie Carvin and Michael John Williams, *Law, Science, Liberalism and the American Way of Warfare: The Quest for Humanity in Conflict* (Cambridge: Cambridge University Press, 2014); Laura A. Dickinson, "Military Lawyers on the Battlefield: An Empirical Account of International Law Compliance," *The American Journal of International Law* 104, no. 1 (January 2010): 1–28; Janina Dill, *Legitimate Targets?: Social Construction, International Law and US Bombing* (Cambridge: Cambridge University Press, 2014);

Previous studies have provided a rich description of the US's ambivalent role in the emergence of the AP mine ban but there has been little attention to subsequent developments.¹⁰ I draw on a wealth of empirical evidence—including public statements, reports, archival documents, and in-depth expert interviews—to show how civil society and domestic political actors maneuvered the US onto their favored rhetorical terrain through the deployment of factual and normative claims. Successive US administrations, both Democratic and Republican, have endorsed the humanitarian objectives of the mine ban while at the same time asserting the enduring value of AP mines. US responses were not the result of a conscious effort to bind itself—as would be envisioned by a notion of “self-entrapment”—but rather a tactical response to external pressure. Pro-ban advocates have exploited these rhetorical tensions, generating additional responses from US officials that progressively narrowed the public justifications for AP mines. The declining relevance of AP mines in US doctrine is therefore not simply the result of an exogenous change in material conditions but can only be understood in the context of a fundamental shift in international social expectations that elevated humanitarian considerations in the assessment of the weapons' utility, leading to a revised cost-benefit calculation. I further identify domestic institutional adaptation as a key mechanism for transmitting rhetorical entrapment into policy outcomes. US discursive commitments prompted a search for alternative technologies to replace AP mines and stimulated changes to domestic legislation, bureaucratic structures, and military doctrine and procurement that together have greatly diminished the practical role of AP mines in US warfare.

Fernando G. Nuñez-Mietz, “Lawyering Compliance with International Law: Legal Advisers in the ‘War on Terror,’” *European Journal of International Security* 1, no. 2 (July 2016): 215–38.

¹⁰ Kenneth Rutherford, “The Anti-Personnel Landmine Ban Convention: A Non-Hegemonic Regime,” in *Cooperating Without America: Theories and Case Studies of Non-Hegemonic Regimes*, ed. Stefan Brem and Kendall Stiles (New York: Routledge, 2009), 123–46; Leon V. Sigal, *Negotiating Minefields: The Landmines Ban in American Politics* (New York: Routledge, 2006); Mary Wareham, “Rhetoric and Policy Realities in the United States,” in *To Walk Without Fear: The Global Movement to Ban Landmines* ed. Maxwell A. Cameron, Robert J. Lawson, and Brian W. Tomlin (Toronto: Oxford University Press, 1998), 212–47.

I develop my argument in five steps. I first describe the puzzle animating this study. I then develop my theoretical account concerning rhetorical entrapment and US power and explain the research design. In the third part I apply the argument to a detailed case study of US interaction with the mine ban movement since the early 1990s. The fourth part extends the analysis to assess the prospects for US antipersonnel mine policy under the current Trump administration. President Trump is upending conventional foreign policy wisdom and has alienated the United States from its historic commitments to a liberal international order.¹¹ His administration would therefore seem an especially unlikely target for rhetorical entrapment. Yet I argue that current US accommodation is likely to endure despite the antipathy of the current president as the manner by which AP mines have been marginalized in US military plans provides a source of policy stability. I conclude by briefly considering the broader implications of the present case for rhetorical entrapment in global politics.

US HEGEMONY AND MULTILATERAL CONSTRAINTS ON WARFARE

Antipersonnel mines were, until very recently, among the most pervasive weapons in modern warfare.¹² During the latter half of the 20th Century the weapons were employed by state and non-state actors alike in virtually every conflict around the globe, with tens of millions of mines directly causing thousands of deaths and tens of thousands of casualties annually.¹³ In recognition of this widespread humanitarian crisis, in the early 1990s a global civil society

¹¹ Robert Jervis et al., eds., *Chaos in the Liberal Order: The Trump Presidency and International Politics in the Twenty-First Century* (New York: Columbia University Press, 2018); Harold Hongju Koh, *The Trump Administration and International Law* (New York: Oxford University Press, 2018).

¹² Antipersonnel mines are small explosive devices “designed to be placed under, on or near the ground or other surface area and to be exploded by the presence, proximity or contact of a person.” Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction, September 18, 1997, para. 2.1, http://www.un.org/Depts/mine/UNDocs/ban_trty.htm.

¹³ International Campaign to Ban Landmines, *Landmine Monitor 1999* (New York: Human Rights Watch, 1999), 13, http://www.the-monitor.org/index.php/publications/display?act=submit&pqs_year=1999&pqs_type=lm&pqs_report=&pqs_section=. For an overview of the historical uses of AP mines see Mike Croll, *The History of Landmines* (Barnsley: Pen & Sword Books Ltd, 1998).

movement joined forces with sympathetic states to pursue a comprehensive prohibition on the weapons.¹⁴ The 1997 MBT aims to reverse a permissive international norm that long regarded AP mines as unexceptional. The treaty has achieved widespread acceptance with 164 State Parties at present, yet the United States—along with other military powers like China, India, and Russia—refused to join the MBT.¹⁵

This response fits within the broader historical pattern of exceptionalism in US foreign policy that is marked by an enduring ambivalence towards international law.¹⁶ A belief in the US's distinctive domestic political culture and a recognition of its preeminent material and diplomatic capacities has combined to produce an awkward mix of leadership in the creation and enforcement of international institutions and efforts to exempt itself from these binding restraints through non-participation, reservations, and forms of non-compliance. Chayes has termed this “selective multilateralism.”¹⁷ A sense of America's special role in the world informs an expectation that primacy bestows considerable latitude in interpreting and where necessary avoiding institutional restraints.¹⁸ Wohlforth thus concludes that “American leaders repeatedly promise their people that they will never allow foreigners a veto on any action they deem necessary for US interests... the US ignores any rules that get in its way.”¹⁹

¹⁴ Kenneth R. Rutherford, *Disarming States: The International Movement to Ban Landmines* (Santa Barbara: Praeger, 2011); Richard Price, “Reversing the Gun Sights: Transnational Civil Society Targets Land Mines,” *International Organization* 52, no. 3 (Summer 1998): 613–644.

¹⁵ The MBT prohibits the use, production, stockpiling, and transfer of antipersonnel mines and additionally requires member states destroy current stockpiles, clear mine-infested land under their control, and aid mine victims.

¹⁶ Michael Ignatieff, ed., *American Exceptionalism and Human Rights* (Princeton: Princeton University Press, 2005); Harold Hongju Koh, “On American Exceptionalism,” *Stanford Law Review* 55 (May 2003): 1479; Michael Byers and Georg Nolte, eds., *United States Hegemony and the Foundations of International Law* (Cambridge: Cambridge University Press, 2003).

¹⁷ Antonia Chayes, “How American Treaty Behavior Threatens National Security,” *International Security* 33, no. 1 (Summer 2008): 47.

¹⁸ Krisch argues, for example, that hegemons frequently employ international law to bind other states while withholding their consent from initiatives that empower weaker actors or unduly impede their exercise of power. Nico Krisch, “International Law in Times of Hegemony: Unequal Power and the Shaping of the International Legal Order,” *European Journal of International Law* 16, no. 3 (June 2005): 399.

¹⁹ Wohlforth, “US Leadership,” 419.

This resistance should be especially apparent in matters of national security where legal restraints are assumed to hold least sway.²⁰ Sceptics routinely argue that international institutions lack independent causal influence either because they are the product of dominant distributions of material power or because they merely formalize the existing preferences of participating actors.²¹ Regulations on the means of warfare should therefore follow, rather than precede, a weapon's obsolescence. Yet contrary to a spare materialist argument that would regard AP mines as irrelevant, American military leaders have continued to assert their importance despite the rapid growth of high-technology weapons—including precision-targeted munitions and autonomous platforms—that have revolutionized US warfare.²² Indeed, there is a variety of scenarios in which AP mines could conceivably serve a valuable function in America's ongoing global wars, such as providing perimeter protection for isolated forward operating bases or as a pursuit-deterrent for use by special forces teams; most notably, US commanders continue to maintain the importance of AP mines in the defense of South Korea. The Pentagon remains extremely wary of conceding influence over its capabilities to non-governmental organizations and has long regarded the mine ban movement as a precedent for eliminating other weapons systems such as cluster munitions.²³

²⁰ Benjamin A. Valentino, Paul K. Huth, and Sarah Croco, "Covenants without the Sword: International Law and the Protection of Civilians in Times of War," *World Politics* 58, no. 3 (April 2006): 339–77.

²¹ George W. Downs, David M. Rocke, and Peter N. Barsoom, "Is the Good News about Compliance Good News about Cooperation?" *International Organization* 50, no. 3 (Summer 1996): 379–406; John J. Mearsheimer, "The False Promise of International Institutions," *International Security* 19, no. 3 (Winter 1994–95): 5–49.

²² Martin E. Dempsey, "Fiscal Year 2015 National Defense Authorization Budget Request from the Department of Defense," US House Armed Services Committee (2014), <https://www.c-span.org/video/?318133-1/hearing-fy2015-defense-budget&start=4013>, at 1.06.53; John M. Shalikashvili, "Letter from John M. Shalikashvili, Chairman of the Joint Chiefs of Staff to Hon. Floyd Spence, Chairman, Committee on National Security, House of Representatives," Pub. L. No. Congressional Record, Vol. 141, No. 198-Part II, Committee on National Security, House of Representatives (1995), <https://www.congress.gov/crec/1995/12/13/CREC-1995-12-13-bk2.pdf>.

²³ Interview with Mary Wareham, Advocacy Director, Arms Division, Human Rights Watch, Washington D.C., October 27, 2017. Interview with Peter Herby, former head of the Arms Unit in the Legal Division of the International Committee of the Red Cross (1997-2012), Geneva, August 24, 2017. Interview with Karl Inderfurth, former US Assistant Secretary of State for South Asian Affairs (1997-2001), Washington, D.C., October 26, 2017. Telephone interview with Mark Perry, author and historian, March 19, 2018. Interview with Tim Rieser, foreign policy aide to U.S. Senator Patrick Leahy (1985-present), Washington, D.C., October 27, 2017.

Rather than representing an unproblematic development, therefore, the elimination of AP mines poses real costs even for a highly sophisticated military.

RHETORICAL ENTRAPMENT AND US POWER

How might the United States be influenced by an international institution it formally rejects? I contend that one source of constraint can be found in the way that external actors subject US policies to ongoing scrutiny, thereby eliciting responses that embed the US within new normative discourses and increase pressure for substantive policy change. My account draws inspiration from recent discussions that emphasize the strategic use of principled claims to achieve policy goals. Constructivists have long contended that actor identities and resulting interests are shaped by the broader social setting in which they are situated and as such, collective ideas concerning legitimate conduct provide the context for instrumental action. Rationality and normativity are thus deeply entwined and cannot be neatly separated ontologically or analytically.²⁴ Most notably, Schimmelfennig's conception of "rhetorical action"²⁵ and Krebs and Jackson's "rhetorical coercion"²⁶ illustrate how norm entrepreneurs seek to compel policy changes in a target actor by altering the discursive setting and hence the cost-benefit calculations upon which policy judgements are based, and how the targets of these efforts may adopt new international norms due to concerted pressure from external coercers without internalizing these values through socialization. Despite the differing terms, these accounts share the fundamental assumptions of rhetorical entrapment employed here.

²⁴ James D. Fearon and Alexander Wendt, "Rationalism v. Constructivism: A Skeptical View," in *Handbook of International Relations*, ed. Walter Carlsneas, Thomas Risse, and Beth A. Simmons (London: SAGE Publications, 2002), 52–72.

²⁵ Schimmelfennig, "The Community Trap."

²⁶ Krebs and Jackson, "Twisting Tongues."

Rhetorical entrapment as a discursive contest

Common to these accounts is the view that actors deploy claims extensively in international political life but frequently do not approach these interactions as open-minded interlocutors willing to change their views. Instead, they envision a strategic environment in which actors compete through the medium of discourse to pursue existing objectives. A cycle of rhetorical entrapment begins with a norm-promoting actor (the entrapper) publicly highlighting purported inconsistencies between a target's current behavior and its professed commitment to some collective standard. While the alleged deviance may serve as an initial motivation, the strategic objective is to draw the target into an ongoing debate and, ultimately, to force the target to accede to the rhetorical framing advanced by the entrapper. Successful rhetorical entrapment denies the target a "socially sustainable" alternative position that can be defended amongst the relevant community and leads the target to more fully align its behavior and discourse with the referent norm as a means of avoiding additional reputational costs.²⁷

Targets of rhetorical coercion have a range of potential responses but often choose to make tactical concessions—modifying their discourse and/or undertaking policies that represent a partial accommodation to the referent norm—in the hopes of deflecting further criticism. For example, the literature on human rights has observed that states often endorse international norms without a commensurate intention to observe their behavioral requirements.²⁸ Yet opportunistic adaptation is potentially costly even when it is insincere since the target must now defend its actions in reference to the dominant standard which creates a new set of justifications that can be seized on by an entrapping actor to demand

²⁷ Krebs and Jackson, "Twisting Tongues," 42; Petrova, "Rhetorical Entrapment and Normative Enticement," 387.

²⁸ Thomas Risse, Stephen C. Ropp, and Kathryn Sikkink, eds., *The Power of Human Rights: International Norms and Domestic Change* (Cambridge: Cambridge University Press, 1999); Thomas Risse, Stephen C. Ropp, and Kathryn Sikkink, eds., *The Persistent Power of Human Rights: From Commitment to Compliance* (Cambridge: Cambridge University Press, 2013); Heather Smith-Cannoy, *Insincere Commitments: Human Rights Treaties, Abusive States, and Citizen Activism* (Washington: Georgetown University Press, 2012).

further change. Instead of foreclosing additional scrutiny, therefore, incompletely adopting the language of a norm cedes rhetorical ground to the entrapper and raises the social costs of a future reversal.²⁹

Rhetorical entrapment can be conceptualized as a sub-set of strategic norm entrepreneurship that also includes social pressure tactics—such as naming and shaming—and persuasion that have been extensively studied by IR scholars. As with naming and shaming, entrapping actors publicize alleged transgressions and change in a target actor is driven by a desire to avoid further social or material punishments. But rhetorical entrapment is explicitly iterative, in that the entrapper aims to capitalize on prior commitments to force the target into making additional justifications that set the conditions for further pro-norm adaptation. And though an entrapper would certainly like to convince the target of the factual or moral legitimacy of their claims, genuine persuasion is likely rare in international politics.³⁰ What is colloquially referred to as “arguing” often lacks the foundational requirement of a good-faith exchange of ideas aimed at achieving a reasoned agreement, as posited in Habermasian communicative action theory, or preference-updating in the form of learning.³¹ Rhetorical entrapment, by contrast, does not require that actors internalize the norm and assumes only thin socialization in the sense of adopting the language of a norm in response to external pressure. The psychological dispositions of individual or collective actors are both extremely difficult to determine empirically and unnecessary to explain observed changes in actor behavior: neither the beliefs nor sincerity of the actors matter, aside from a basic assumption regarding their instrumental response to social conditions.³²

²⁹ Petrova, “Rhetorical Entrapment and Normative Enticement,” 388; Risse and Sikkink, “The Socialization of International Human Rights Norms,” 25–28; Schimmelfennig, “The Community Trap,” 65.

³⁰ Tine Hanrieder, “The False Promise of the Better Argument,” *International Theory* 3, no. 3 (September 2011): 390–415; Krebs and Jackson, “Twisting Tongues,” 36.

³¹ Harald Müller, “Arguing, Bargaining and All That: Communicative Action, Rationalist Theory and the Logic of Appropriateness in International Relations,” *European Journal of International Relations* 10, no. 3 (September 2004): 395–435; Risse, “Let’s Argue!”

³² Krebs and Jackson, “Twisting Tongues,” 40–42; Schimmelfennig, “The Community Trap,” 66. My account thus shares important affinities with other conceptualisations—such as “acculturation”—that consider

This account offers a more nuanced conception of norm development envisioned in the now-seminal “norm life cycle.”³³ Rhetorical entrapment cannot occur outside of a social context which provides the source cues for forms of social pressure: an actor that is entirely detached from the broader normative environment would not be susceptible to these coercive efforts. Consequently, rhetorical entrapment is enabled by the prior—and often partial or tentative—adoption of the referent norm or logically connected norms. But rhetorical entrapment does not lead to conclusive socialization at a discernible moment, but rather points towards the gradual, ambivalent, and frequently incomplete adoption of norms. Despite this, meaningful change is still possible absent full internalization, the final stage of Finnemore and Sikkink’s influential model. In this respect, rhetorical entrapment adds to recent critiques concerning the excessive linearity of early norms research which instead regard engagement with norms as contingent and inherently fluid.³⁴

Entrapping America

How can rhetorical entrapment work to constrain American power? Here I focus on three key characteristics of the social setting that serve as scope conditions for my argument, concerning the normative structure, agency of entrapping actors, and US embeddedness in the international order, in turn. First, while not premised on achieving genuine agreement, rhetorical entrapment still requires shared discursive frameworks to enable actors to strategically manipulate words: a target can only respond to a coercive rhetorical maneuver if there is some common basis for perceiving and evaluating claims. In their important

forms of change in weakly socialized actors. Ryan Goodman and Derek Jinks, *Socializing States: Promoting Human Rights through International Law* (New York: Oxford University Press, 2013).

³³ Martha Finnemore and Kathryn Sikkink, “International Norm Dynamics and Political Change,” *International Organization* 52, no. 4 (Autumn 1998): 887–917.

³⁴ Nicole Deitelhoff and Lisbeth Zimmermann, “Norms under Challenge: Unpacking the Dynamics of Norm Robustness,” *Journal of Global Security Studies* 4, no. 1 (January 2019): 2–17; Antje Wiener, *Contestation and Constitution of Norms in Global International Relations* (New York: Cambridge University Press, 2018).

discussion Krebs and Jackson contend that such conditions are largely lacking in the international system, due to a relative paucity of communal values and associated rhetorical structures. As such, rhetorical action is in their view less common and potent in the transnational sphere than in more cohesive domestic or regional settings—like the European Union—which feature denser institutionalization and more extensive social ties among constituent actors.³⁵

I think this is too pessimistic, as it overemphasizes the distinction between domestic and international environments and minimizes the extent to which international political life is constituted by intersubjective understandings. Constructivist IR theorizing has persuasively identified international law as a foundational institution through which actors define legitimate participants and forms of appropriate conduct in an international social system.³⁶ Law is both a prominent means of developing shared normative commitments concerning status and appropriate behavior and a distinctive type of argumentative practice whose rational-legal authority provides a particularly legitimate means of advancing and adjudicating claims.³⁷ International law thus enjoys a privileged status in contemporary international affairs as the dominant linguistic framework for characterizing forms of action and justifying policy choices, and equally provides the means by which other actors can assess and potentially challenge these formulations. These discursive structures combine with the routinized practices of international diplomacy to dictate what can be said, in what

³⁵ Krebs and Jackson, “Twisting Tongues,” 55–56; Schimmelfennig, “The Community Trap.”

³⁶ Jutta Brunnée and Stephen J. Toope, *Legitimacy and Legality in International Law: An Interactional Account* (Cambridge: Cambridge University Press, 2010); Christian Reus-Smit, ed., *The Politics of International Law* (Cambridge: Cambridge University Press, 2004).

³⁷ Martha Finnemore, “Legitimacy, Hypocrisy, and the Social Structure of Unipolarity: Why Being a Unipole Isn’t All It’s Cracked up to Be,” in *International Relations Theory and the Consequences of Unipolarity*, ed. G. John Ikenberry, Michael Mastanduno, and William C. Wohlforth (Cambridge: Cambridge University Press, 2011), 79–83; Shirley V. Scott, “International Law as Ideology: Theorizing the Relationship between International Law and International Politics,” *European Journal of International Law* 5, no. 1 (January 1994): 313–25.

setting, and to what intended targets and thus provide the necessary social structures to enable rhetorical action.³⁸

Most importantly for present purposes, the body of law regulating the use of armed force—variously termed the laws of war or international humanitarian law (IHL)—establishes collective standards for legitimate conduct in war. IHL is grounded in the 1949 Geneva Conventions and 1977 Additional Protocols, and their antecedents such as the 1868 St Petersburg Declaration and Hague Conventions of 1899 and 1907. These sources are supplemented by an expanding collection of treaties and customary rules that govern particular weapons systems and protect categories of people or objects (such as child soldiers and cultural property).³⁹ At core, IHL seeks to limit the harm caused in armed conflict by conditioning notions of military necessity on requirements that the means and methods of warfare avoid superfluous injury and unnecessary suffering; are able to effectively discriminate between legitimate targets of attack and protected non-combatants; and are proportionate to the anticipated military advantage to be achieved. Taken collectively, this growing body of legal rules and norms provides the basis for assessing the use of armed violence by state and non-state actors, while its uneven adoption and internal ambiguities leaves considerable space for competing accounts of what the law permits or forbids in specific contexts. The legalization of the use of force does not eliminate political contestation, therefore, but entails a channeling of rhetorical maneuvers via legal discourse and a consequent narrowing of possible claims. In this respect the institutionalization of the mine ban norm through a binding multilateral treaty associated diplomatic meetings, an Implementation Support Unit which serves as a de-facto secretariat, and extensive civil society oversight in the form of the International Campaign to Ban Landmines' (ICBL)

³⁸ Emanuel Adler and Vincent Pouliot, "International Practices," *International Theory* 3, no. 1 (February 2011): 1–36; Brunnée and Toope, *Legitimacy and Legality in International Law*.

³⁹ Dieter Fleck, ed., *The Handbook of International Humanitarian Law*, 3rd ed. (Oxford: Oxford University Press, 2014).

annual *Landmine Monitor* report, facilitates rhetorical action by clarifying the nature of obligations and providing avenues for discursive engagement.

Successful rhetorical entrapment also requires the agency of entrapping actors who can effectively manipulate available discursive frames to shape the strategic social environment.⁴⁰ While actors have considerable discretion in structuring their claims, discourse is not infinitely malleable: the requirement of intersubjective acceptance means that effective public discourse is confined within the parameters of permissible speech and must be attentive to demands of consistency and coherence in order to resonate with an audience.⁴¹ An impressive body of scholarship has detailed how the global mine ban movement led by the ICBL and International Committee of the Red Cross (ICRC) leveraged the language of international humanitarian law to stigmatize AP mines as intrinsically illegitimate weapons due to their indiscriminate and disproportionate effects.⁴² This involved challenging the dominant understanding of military utility by subjecting state claims concerning the value of AP mines to a new humanitarian standard that privileged human suffering, thereby reversing the burden of proof under which the weapons are justified. As one senior ICBL leader acknowledged “We’ve never said [that AP mines have no military value]. We’ve always said that the humanitarian impact of antipersonnel mines far outweighs their military utility.”⁴³ The ICBL and ICRC were effective in this effort because they were regarded by the wider international community as possessing moral authority due to their humanitarian objectives

⁴⁰ Following Vennesson I define frames as “interpretative structures, embedded in political discourse that organise reality and provide meaning of an issue or an event.” Pascal Vennesson, “War under Transnational Surveillance: Framing Ambiguity and the Politics of Shame,” *Review of International Studies* 40, no. 1 (January 2014): 31.

⁴¹ Stacie E. Goddard and Ronald R. Krebs, “Rhetoric, Legitimation, and Grand Strategy,” *Security Studies* 24, no. 1 (March 2015): 29; Krebs and Jackson, “Twisting Tongues,” 45.

⁴² Louis Maresca and Stuart Maslen, eds., *The Banning of Anti-Personnel Landmines: The Legal Contribution of the International Committee of the Red Cross 1955–1999* (Cambridge: Cambridge University Press, 2000); Price, “Reversing the Gun Sights”; Rutherford, *Disarming States*.

⁴³ Interview with Amelie Chayer, former Acting Director, International Campaign to Ban Landmines, Geneva, August 22, 2017.

and the specialized expertise they had developed in documenting the human scale of the global landmines crisis.⁴⁴

Research on transnational advocacy has also persuasively shown that social pressure is greatly enhanced by robust networks of governmental and non-governmental actors working both within and outside the target state.⁴⁵ In the present case, rhetorical entrapment has been driven by a close strategic partnership between the ICBL and its US affiliate (USCBL), the ICRC, and a limited number of domestic political elites, most especially Democratic Senator Patrick Leahy. Pro-ban advocates strategically engaged US officials on their own terms by carefully monitoring US policy pronouncements and “us[ing] their words against them whenever we can” to generate conditions for political change.⁴⁶ This has taken two principal forms. On the one hand, entrapping actors intensively interrogated the *factual basis* of US claims concerning the technical features and uses of AP mines in US military doctrine. On the other hand, these same advocates have invoked *moral considerations and US identity* by highlighting a purported gap between US commitment to humanitarian values and its status as an outsider to the global mine ban.

As the target of these rhetorical efforts, US leadership in the modern rule-based international order renders it particularly liable to claims of hypocrisy when it seeks to exempt itself from widely-accepted institutions. Despite its material preponderance US hegemony is ultimately premised upon legitimation more than raw coercion and requires the collective acceptance of other actors.⁴⁷ IR scholarship has established that states—to the

⁴⁴ International Committee of the Red Cross, “Mines, A Perverse Use of Technology” (Geneva: ICRC, 1992); The Arms Project and Physicians for Human Rights, “Landmines: A Deadly Legacy” (New York: Human Rights Watch, 1993).

⁴⁵ Richard Price, “Transnational Civil Society and Advocacy in World Politics,” *World Politics* 55, no. 4 (July 2003): 594–98; Risse and Sikkink, “The Socialization of International Human Rights Norms,” 5.

⁴⁶ Interview with Jeff Abramson, *Landmine and Cluster Munition Monitor* Program Manager, International Campaign to Ban Landmines and Cluster Munition Coalition, Washington D.C., October 27, 2019.

⁴⁷ Ian Clark, “Bringing Hegemony Back in: The United States and International Order,” *International Affairs* 85, no. 1 (January 2009): 23–36; Finnemore, “Legitimacy, Hypocrisy, and the Social Structure of Unipolarity.”

extent they are envisioned as collective actors—are sensitive to their position within complex social hierarchies and seek to enhance their prestige and avoid stigma.⁴⁸ In broad terms, therefore, the more a state is motivated to maintain its status as a member of good standing in a community, the greater its vulnerability to rhetorical coercion premised on deviance from ostensible collective values.⁴⁹ Previous studies specifically suggest that democracies by virtue of their representative government and openness to civic participation are more susceptible to forms of internal and external pressure.⁵⁰ For example, Erickson has demonstrated how democratic states adopted regulations on conventional weapons sales out of concern for their domestic and international reputations.⁵¹ As already noted, adaptation can be entirely self-interested, as target actors change their behavior due to the perceived social costs of continued non-conformance without any deeper shift in beliefs.

Embeddedness in a broader normative and legal order thus facilitates rhetorical entrapment by providing the shared discursive frames through which esteem and shame are instrumentalized. The US has adopted the vast majority of core rules governing the conduct of warfare and US political and military leaders alike are highly sensitive to scrutiny concerning the behavior of their armed forces. International law thus clearly shapes the way the US fights, even in the breach.⁵² Moreover, US officials regularly publicize their claims regarding the appropriate limits of international rules, thus providing rhetorical openings for further engagement. As a consequence, the US has been intimately involved in the core

⁴⁸ Rebecca Adler-Nissen, “Stigma Management in International Relations: Transgressive Identities, Norms, and Order in International Society,” *International Organization* 68, no. 1 (January 2014): 143–76; T. V. Paul, Deborah Welch Larson, and William C. Wohlforth, eds., *Status in World Politics* (New York: Cambridge University Press, 2014).

⁴⁹ Risse and Sikkink, “The Socialization of International Human Rights Norms,” 24; Thomas Risse and Stephen C. Ropp, “Introduction and Overview,” in *The Persistent Power of Human Rights: From Commitment to Compliance*, ed. Thomas Risse, Stephen C. Ropp, and Kathryn Sikkink (Cambridge: Cambridge University Press, 2013), 20.

⁵⁰ Price, “Transnational Civil Society,” 592–98.

⁵¹ Jennifer Erickson, *Dangerous Trade: Arms Exports, Human Rights, and International Reputation* (New York: Columbia University Press, 2015).

⁵² Dill, *Legitimate Targets?*; Nuñez-Mietz, “Lawyering Compliance;” Perry interview.

debates that animate the AP mine ban, even as it has remained outside of the formal legal instrument. Yet successive administrations did not adopt the language of the mine ban as a form of deliberate self-entrapment, using public statements to bind current or future domestic leaders to the norm. Indeed, the US often interprets—and arguably manipulates—international legal standards to justify its policies.⁵³ Rather, US responses were defensive and reactive, and aimed at subduing external criticism concerning its use of armed force. But because international law is a collective social phenomenon, its meanings cannot be unilaterally imposed even by a preeminent state. Partial US concessions empowered pro-ban actors to further interrogate US claims and thereby lay the groundwork for entrapment. This iterative process forced the US to repeatedly justify its policies in reference to an international standard which had the effect of endorsing new criteria for evaluating legitimate uses of force and raising the standards against which AP mines are judged.

Research design

Rhetoric is more than mere “cheap talk” that actors deploy without consequence and can have real-world effects by shaping meaning and constraining subsequent policy options.⁵⁴ I employ process tracing and chart the impact of rhetorical entrapment on US antipersonnel mine policy over a period of 25 years spanning four Democratic and Republican administrations. I reconstruct the chronology of key rhetorical engagements and link these to subsequent changes in US discourse and behavior by drawing on public statements, policy documents, NGO reports and letters, archival materials, and in-depth interviews with civil society advocates, MBT representatives, and current and former US officials. Process tracing is especially valuable for the kind of analysis undertaken here as it is directed towards the

⁵³ Rebecca Sanders, *Plausible Legality: Legal Culture and Political Imperative in the Global War on Terror* (Oxford: Oxford University Press, 2018).

⁵⁴ Krebs and Jackson, “Twisting Tongues,” 42; Schimmelfennig, “The Community Trap,” 65.

“systematic study of the link between an outcome of interest and an explanation based on the rigorous assessing and weighting of evidence for and against causal inference”⁵⁵ and is therefore well adapted to addressing the sequencing of events and descriptive complexity inherent in a single case study.⁵⁶

For rhetorical entrapment to provide a persuasive explanation it must account for both the timing and nature of observed change. US officials adopted the humanitarian discourse that acknowledges the particular threat that AP mines pose to civilian populations but promoted a particularly American emphasis on technological solutions that at once downplayed US responsibility for landmine casualties and sought to carve-out exemptions for specific US systems. This ambivalence opened avenues for rhetorical pressure by pro-ban advocates which in turn generated further US justifications that reflected the growing influence of the stigma. Here the *absence* of certain speech acts provides powerful evidence of norm impact as formerly acceptable claims are removed from public discourse.⁵⁷ The abandonment of references to AP mines as an unexceptional component of US arsenals and later, the technological superiority of US landmines, are thus highly consequential developments.

A central contention of this article is that rhetorical concessions do not mark the end of an entrapment episode but frequently stimulate processes of formal policy change as new discourses come to be embedded in state institutions. Adaptation to norms thus becomes path dependent as the acceptance of externally-imposed rhetorical framings shapes behavioral choices and capacities that narrow the range of possible future options.⁵⁸ The acceptance of

⁵⁵ Jacob I. Ricks and Amy H. Liu, “Process-Tracing Research Designs: A Practical Guide,” *PS: Political Science & Politics* 54, no. 1 (July 2018), 1.

⁵⁶ Andrew Bennett and Jeffrey T. Checkel, eds., *Process Tracing: From Metaphor to Analytic Tool* (Cambridge: Cambridge University Press, 2014); James Mahoney, “Process Tracing and Historical Explanation,” *Security Studies* 24, no. 2 (April 2015): 200–218.

⁵⁷ Schimmelfennig, “The Community Trap,” 66.

⁵⁸ Steven W. Hook, “Ideas and Change in U.S. Foreign Aid: Inventing the Millennium Challenge Corporation,” *Foreign Policy Analysis* 4, no. 2 (April 2008): 147–67.

humanitarian language concerning AP mines has spurred new domestic legislation; changes to military doctrine, training, and procurement; and a long-term resource-intensive search for alternative technologies to replace AP mines that set the weapons apart as a topic of special concern and raised the threshold for their prospective use. The US has not used AP mines since the 1991 Gulf War and has committed to destroy its remaining stockpiles despite ongoing military operations around the world. These actions have aggregated over time to foreclose formerly uncontroversial policy options, rendering reversal more complicated and costly. While it is certainly true that “few in the armed services [now deem] landmines to be a military requirement,”⁵⁹ this shift has been driven by the transnational rhetorical strategy described below and not a decline in material utility alone.

THE UNITED STATES AND THE ANTIPERSONNEL MINE BAN

The Clinton administration

The presidency of Bill Clinton was bookended by the emergence of the global mine ban movement in the early 1990s and its successful culmination in the Mine Ban Treaty in December 1997. President Clinton appears to have become personally invested in the issue and there was considerable sympathy among senior administration officials.⁶⁰ Faced with a growing global movement, “[US officials] always wanted to be seen as doing the right thing or at least something, they didn’t want to alienate themselves from what became most of the rest of the world... and they were certainly aware of and shared the humanitarian concerns.”⁶¹ But US land warfare doctrine envisioned the continued use of AP mines,

⁵⁹ Sigal, *Negotiating Minefields*, 7, 103–22.

⁶⁰ *Ibid.*, 47–48, 118–21, 126–27; Wareham, “Rhetoric and Policy Realities,” 220, 223, 237, 241–42. Interview with Lieutenant General (retired) Robert Gard Jr., Washington, D.C., October 25, 2017; Inderfurth interview.

⁶¹ Herby interview.

primarily as part of integrated antivehicle systems.⁶² Antipersonnel mines had been used extensively in the recent 1991 Gulf War and were regarded by senior officers as an “indispensable component” of the successful ground invasion.⁶³ Clinton’s fraught relationship with the military—stemming from his avoidance of the draft in Vietnam and policy regarding gay servicemembers—left the President unwilling to challenge the senior leadership over AP mines.⁶⁴ From the outset, therefore, the administration attempted to strike a delicate compromise between the President’s purported humanitarian ideals and military demands, which provided rich terrain for rhetorical contest.

Early on the ICBL and USCBL established close relations with Senator Leahy to coordinate pressure on the new administration.⁶⁵ Leahy’s leadership produced a number of domestic legislative developments, notably a temporary export moratorium—subsequently renewed and made permanent in 1997—and a one-year suspension of US mine use. While individually modest, these efforts forced the administration to confront the AP mine issue and began the process of denormalizing the weapons in US discourse. As anticipated in the theoretical account, exposure to the emerging mine ban norm stimulated bureaucratic responses: the Department of State established an Interagency Working Group on Demining and Landmine Control, initiated an intensive landmine policy review, and commissioned an annual report entitled *Hidden Killers*, the first systematic governmental study of the global AP mine crisis.⁶⁶ While not committing the US to any particular course of action, these processes elevated the profile of AP mines in future policy discussions.

⁶² Office of International Security and Peacekeeping Operations, U.S. Department of State, “Hidden Killers 1994: The Global Landmine Crisis. Report to the U.S. Congress on the Problem with Uncleared Landmines and the United States Strategy for Demining and Landmine Control” (Washington, D.C.: Department of State, January 1994), sec. VIII, https://1997-2001.state.gov/global/arms/rpt_9401_demine_toc.html.

⁶³ Shalikashvili, Letter to Hon. Floyd Spence.

⁶⁴ Gard Jr. interview; Perry interview; Wareham interview.

⁶⁵ Rutherford, *Disarming States*, 37–52, 55–60; Sigal, *Negotiating Minefields*, 14–23.

⁶⁶ Office of International Security and Peacekeeping Operations, “Hidden Killers 1994”; Anita Parlow, “Banning Land Mines,” *Human Rights Quarterly* 16, no. 4 (November 1994): 715–39.

As the sole remaining superpower, the US sought to exert leadership over the nascent international discussions regarding landmines in order to shape the process to favor US interests. In 1993 the United States sponsored a UN General Assembly resolution (introduced by Leahy) calling for a global moratorium on the export and trade in AP mines⁶⁷ but abstained on a parallel resolution seeking a review of existing international legal constraints on conventional weapons, which the Pentagon feared would lead to a global ban.⁶⁸ The most significant development in this early period was Clinton's 1994 UNGA speech in which he called for "the eventual elimination" of AP mines, a phrase that was reportedly included after intensive lobbying from Senator Leahy and his staff.⁶⁹ Yet the US made clear that it did not back such an initiative under present circumstances, and instead sought support for a control regime that would restrict the legitimate uses of the weapons. US officials adopted a strategic framing which downplayed US responsibility for the global humanitarian mine crisis and emphasized the technological superiority of US weapons. In particular, the US claimed that its "smart" AP mines equipped with self-destructing or self-deactivating capabilities eliminated the threat to civilian populations posed by "dumb" or persistent mines used by most states and armed groups.

Clinton's statement provided a rhetorical opening that was immediately seized on by advocates, initiating the twin technical and legal categories that have typified the US landmines issue ever since. NGOs engaged officials in detailed debates concerning the nature

⁶⁷ United Nations General Assembly, "Resolution 48/75K: Moratorium on the Export of Anti-Personnel Land-Mines," Pub. L. No. A/RES/48/75K (1993), para. 2, http://www.un.org/en/ga/search/view_doc.asp?symbol=A/RES/48/75; Rutherford, *Disarming States*, 45–47.

⁶⁸ United Nations General Assembly, "Resolution 48/79: Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed to Be Excessively Injurious or To Have Indiscriminate Effects," Pub. L. No. A/RES/48/79 (1993), http://www.un.org/en/ga/search/view_doc.asp?symbol=A/RES/48/79; Parlow, "Banning Land Mines," 725; Rutherford, *Disarming States*, 45–49.

⁶⁹ William J. Clinton, "Remarks to the 49th Session of the United Nations General Assembly in New York City" (United Nations General Assembly, Forty-ninth session, New York, September 26, 1994), <http://www.presidency.ucsb.edu/ws/index.php?pid=49152&st=united+nations&st1>; Sigal, *Negotiating Minefields*, 47–51; Wareham, "Rhetoric and Policy Realities," 220–21.

and implications of US antipersonnel mine doctrine. The ICRC commissioned detailed studies of past landmine use authored by retired senior military officers that were “quite influential in... forcing armed forces to look at” the issue.⁷⁰ In response, the Department of Defense contracted outside experts to undertake a systematic study of the uses of AP mines⁷¹ and initiated its own internal landmine policy review which ultimately determined that AP mines remained a valuable component of existing operational plans – a decision that was reportedly based on the sole insistence of the commander responsible for Korea.⁷² At the same time, the Pentagon was forced to respond to domestic legislative developments by publicly articulating the conditions for its continued retention of AP mines: “smart” landmines were needed for specific security scenarios and deployed in in conformance with all current requirements of IHL; yet the military leadership also supported the long-term objective of a global mine ban.⁷³

This increased engagement enabled further scrutiny. The 1994 DoD report concluded that antivehicle mines retained defensive utility but that AP mines were less valuable in high-mobility warfare and consequently “may warrant first consideration” in future arms control, a point that was seized upon by the ICBL.⁷⁴ A 1997 report by Human Rights Watch and the Vietnam Veterans of America Foundation drew on the experiences of US soldiers in Korea

⁷⁰ Herby interview. Similarly: interview with Louis Maresca, Senior Legal Adviser, International Committee of the Red Cross, Geneva, August 24, 2017. For details see International Committee of the Red Cross, “Mines, A Perverse Use of Technology”; International Committee of the Red Cross, “Report of the Montreaux Symposium on Anti-Personnel Mines” (Geneva: ICRC, 1993); International Committee of the Red Cross, “Anti-Personnel Landmines: Friend or Foe?” (Geneva: ICRC, December 31, 1997), <https://www.icrc.org/en/publication/0654-anti-personnel-landmines-friend-or-foe-study-military-use-and-effectiveness-anti>.

⁷¹ Stephen D. Biddle, Julia L. Klare, and Jaeson Rosenfeld, “The Military Utility of Landmines: Implications for Arms Control,” Prepared for the Office of the Under Secretary of Defense for Policy (Washington, D.C.: Institute for Defense Analysis, June 1994), <http://www.dtic.mil/dtic/tr/fulltext/u2/a283061.pdf>; Stephen D. Biddle et al., “Landmine Arms Control,” Prepared for the Office of the Under Secretary of Defense for Policy (Washington, D.C.: Institute for Defense Analysis, May 1996), <http://www.dtic.mil/dtic/tr/fulltext/u2/a315050.pdf>.

⁷² Sigal, *Negotiating Minefields*, 125–35; Wareham, “Rhetoric and Policy Realities,” 223–24. Perry interview.

⁷³ Shalikashvili, Letter to Hon. Floyd Spence.

⁷⁴ Biddle, Klare, and Rosenfeld, “The Military Utility of Landmines,” 68.

and Vietnam to counter the idea that there was unanimity within the US military regarding the efficacy of AP mines.⁷⁵ In parallel, the ICBL organized a series of letters signed by retired senior US military officers—including notable figures like General Norman Schwarzkopf and former Commander of US Forces in Korea General James Hollingsworth—supporting US participation in a global mine ban that sought to bolster Clinton against criticism from within the military and conservative political circles.

These pressure tactics forced the administration to respond with new public justifications. Presidential Decision Directive 48 (PDD 48) acknowledged “the growing threat posed by the indiscriminate use of anti-personnel landmines” and committed the US to “aggressively pursue” a comprehensive ban provided that “essential U.S. military requirements and commitments to our allies will be protected.”⁷⁶ PDD 48 then articulated the three core features of a revised US policy. First, the US would abandon “dumb” persistent mines and henceforth rely solely on “smart” mines. Second, PDD 48 emphasized the “the security situation on the Korean Peninsula as a unique case” and linked US participation in a global AP mine ban to the successful resolution of security concerns there.⁷⁷ Finally, the document directed the Department of Defense “to undertake a program of research, procurement and other measures needed to eliminate the requirement for these exceptions and to permit both the United States and its allies to end reliance on [AP mines] as soon as possible.”⁷⁸ While initially designed to delay a decision concerning the nascent AP mine ban,

⁷⁵ Human Rights Watch Arms Project and Vietnam Veterans of America Foundation, “In Its Own Words: The U.S. Army and Antipersonnel Mines in the Korean and Vietnam Wars” (Washington, D.C., July 1997), <https://www.hrw.org/sites/default/files/reports/general977.pdf>.

⁷⁶ Office of the President of the United States of America, “Presidential Decision Directive / NSC-48,” June 26, 1996, 1–2, <https://fas.org/irp/offdocs/pdd/pdd-48.pdf>.

⁷⁷ *Ibid.*, 2.

⁷⁸ *Ibid.* Human Rights Watch, “Clinton’s Landmine Legacy” (Washington, D.C.: Human Rights Watch, June 2000), <https://www.hrw.org/sites/default/files/reports/2000%20June%20Arms%20Clinton%20Landmine%20Rpt..pdf>. The Department of Defense was allocated over \$700 million between fiscal years 1998 and 2005 for research into antipersonnel mine alternatives Committee on Alternative Technologies to Replace Antipersonnel Landmines, “Alternative Technologies to Replace Antipersonnel Landmines” (Washington, D.C.: National

this search for alternative technologies set rhetorical conditions that interacted with evolving conceptions of military utility to constrain US weapons procurement policy going forward.⁷⁹

The announcement drew the immediate ire of civil society who publicly opposed the US effort to retain—even temporarily—AP mines and led to renewed efforts to push for a global ban with or without US participation. Two parallel tracks thus emerged in diplomatic responses to AP mines. The US initially pursued a revised control regime at the 1995-1996 Review Conference of the Convention on Certain Conventional Weapons which led to the agreement of Amended Protocol II (APII).⁸⁰ APII permits the continued use of AP mines provided they contain sufficient metallic content to be detectable and are deployed either in fenced minefields or are equipped with self-destruct and self-deactivation mechanisms. The ICBL excoriated the outcome as a “deplorable failure” and abdication of US leadership whose complexity and emphasis on technological fixes was, in the words of one ICRC representative, “woefully inadequate” to address the humanitarian threat posed by AP mines.⁸¹ The perceived limitations of APII gave additional impetus to efforts by civil society and a “core group” of like-minded states to establish a separate diplomatic process explicitly directed towards the conclusion of a global AP mine ban bypassing US leadership.

The dynamics of rhetorical entrapment help illuminate both the process and outcome of the negotiations that have been described in detail elsewhere.⁸² Petrova has argued that

Research Council, National Academy of Sciences, 2001), 17, <http://www.nap.edu/catalog/10071/alternative-technologies-to-replace-antipersonnel-landmines>.

⁷⁹ Gard Jr. interview; Perry interview.

⁸⁰ United Nations, “Protocol on Prohibitions or Restrictions on the Use of Mines, Booby-Traps and Other Devices as Amended on 3 May 1996 Annexed to the Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed to Be Excessively Injurious or to Have Indiscriminate Effects” (1996), https://treaties.un.org/doc/Treaties/1996/05/19960503%2001-38%20AM/Ch_XXVI_02_bp.pdf.

⁸¹ International Campaign to Ban Landmines, “United States Country Report 1999,” in *Landmine Monitor* (New York: Human Rights Watch / ICBL, 1999), http://archives.the-monitor.org/index.php/publications/display?act=submit&pqs_year=1999&pqs_type=lm&pqs_report=usa&pqs_section=; Maresca and Maslen, *The Banning of Anti-Personnel Landmines*, 445–46; Rutherford, *Disarming States*, 82.

⁸² Stuart Maslen and Peter Herby, “An International Ban on Anti-Personnel Mines: History and Negotiation of the ‘Ottawa Treaty,’” *International Review of the Red Cross*, no. 325 (December 31, 1998): 693–713; Sigal, *Negotiating Minefields*, 155–223.

“[m]oving negotiations to a stand-alone process for those favoring the establishment of new norms tilts the balance in favor of norm proponents, delimits the scope of legitimate arguments, and creates the conditions for rhetorical entrapment of opponents.”⁸³ The decision by pro-ban states to limit participation at the Brussels and Oslo negotiating meetings to those states that endorsed the objectives of a comprehensive prohibition was thus critically important as it maintained an image of cohesion and limited the scope of possible US claims. The discursive terrain of IHL and ongoing technical debates heavily structured both the iterative US proposals and the opposition from other state and NGO participants. US negotiators sought to carve-out exemptions for US mines through a set of connected demands presented as non-negotiable “red-lines.” These faced intense resistance forcing US officials to abandon some aspects—notably a specific geographic exception for Korea and withdrawal and reservations provisions—and offer a new position that insisted on a nine-year delay on the treaty’s entry into force to allow for alternative technologies and a revised definition that effectively excluded US antipersonnel mines deployed as “anti-handling devices” integrated with antivehicle mines (the latter of which are not encompassed in the ban).⁸⁴ By this point, however, the ascendant humanitarian frame emphasizing discrimination and proportionality had become the dominant lens for assessing the legitimacy of AP mines among the majority of states who rejected the US position as inadequate. The Clinton administration remained deeply skeptical about the wisdom of a binding prohibition and assumed that it could effectively shape the outcome through aggressive negotiating tactics; yet the US substantially underestimated the shift in international opinion and was unprepared for the speed and determination of the resulting diplomacy.

⁸³ Petrova, “Rhetorical Entrapment and Normative Enticement,” 389.

⁸⁴ Rutherford, *Disarming States*, 110–12; Sigal, *Negotiating Minefields*, 209–14.

In the aftermath of the US's diplomatic failure, President Clinton justified the decision not to join the MBT by referencing "unique" US global security commitments and again specifically identifying Korea and integrated antipersonnel-antivehicle mines as the primary impediments.⁸⁵ During the same statement, Clinton also announced a series of additional policy steps by which the US would "develop alternatives to antipersonnel land mines;" end the use of all AP mines by 2003 (and by 2006 for Korea) if suitable alternatives were found; seek further negotiations at the Conference on Disarmament; and substantially increase its funding for humanitarian demining around the world.⁸⁶ These commitments were formalized in Presidential Decision Directive 64 of June 1998 which further promised that the US would join the MBT by 2006 if existing AP mines could be replaced by new systems.⁸⁷

At the moment of maximum geopolitical advantage, the United States failed to decisively shape the course of a major international security institution, in large part because it had been successfully boxed-in to a set of discursive positions that it did not fully control. The US refusal to join thus cast it as an outlier in an international community that had rapidly changed its normative orientation on this issue. As Human Rights Watch asserted, "the president has ceded leadership and abdicated responsibility on a crucial humanitarian issue that he in no small part personally brought to the attention of the rest of the world."⁸⁸

The Bush administration

When President Bush took office in January 2001 he inherited a policy which, while falling short of full endorsement of the mine ban norm, did institutionalize the language of AP mines

⁸⁵ William J. Clinton, "Remarks by the President on Land Mines" (The Roosevelt Room, White House, Washington D.C., September 17, 1997), <http://www.fas.org/asmp/resources/govern/withdrawal91797.html>.

⁸⁶ Ibid.

⁸⁷ Office of the President of the United States of America, "Presidential Decision Directive PDD 64: Humanitarian Demining," May 1998, <http://fas.org/irp/offdocs/pdd-64.htm>.

⁸⁸ Human Rights Watch, "Clinton's Landmine Legacy," 2.

as a global humanitarian problem. This discursive framing constituted a form of rhetorical path dependence that continued to inform US policymaking on the issue and limited the range of acceptable arguments. While the administration was often characterized as hostile to international legal constraints, the AP mine ban was not a subject of particular ire: President Bush was not personally interested in the issue as his predecessor had been, and the administration's most hardline anti-internationalist voices were less involved in discussions as compared with other institutions like the International Criminal Court.⁸⁹ Yet opportunities for rhetorical entrapment were hindered by a lack of extensive engagement that characterized the Clinton years as the US stopped attending Mine Ban Treaty meetings as an observer.

Other pathways endured, however, with the rhetorical contest particularly defined by technical debates over the nature and operation of US mines. The terrorist attacks of 11 September 2001 intensified questions about the future use of US military power while the invasions of Afghanistan and Iraq presented new opportunities for AP mine use. Early on the new administration created the Office of Weapons Removal and Abatement within the Department of State that consolidated bureaucratic policymaking concerning landmines and initiated a landmine policy review involving the National Security Council and Departments of Defense and State. The DoD commissioned expert reports that examined the historical use of AP mines, their prospective role in contemporary US warfighting, and the prospects for alternative technologies to replace AP mines in US military doctrine. These studies concluded that AP mines remained highly valuable when deployed as part of antivehicle minefields, that no other existing technologies fully replaced AP mines without substantially increasing the size of a defending force, and that eliminating AP mines “could lead to higher casualties to our ground forces and/or could reduce our military capabilities.”⁹⁰

⁸⁹ Telephone interview with Lincoln P. Bloomfield Jr., former United States Assistant Secretary of State for Political-Military Affairs (2001-2005), March 20, 2018.

⁹⁰ Committee on Alternative Technologies to Replace Antipersonnel Landmines, “Alternative Technologies,” vii; J.F. Crandley, Jr. et al., “Battlefield Utility of Antipersonnel Landmines and Proposed

Pro-ban actors attempted to shape the ongoing policy review by directly challenging the premises of the US position. Supporters of the mine ban in the US Congress commissioned their own report into the US use of AP mines in the 1991 Gulf War which raised concerns about casualties to friendly forces and impediments to US high-mobility warfare and rejected claims that AP mines had been decisive in that conflict.⁹¹ This forced a response from the Pentagon that sought to rebut the specific assessments by detailing a series of initiatives aimed at improving the reliability of existing landmine systems and developing alternative technologies.⁹² Retired military officers were once again recruited to challenge the stated justifications for retaining AP mines in the defense of Korea.⁹³ Finally, much of the debate again revolved around administration assertions that their smart mines were “extremely reliable” and nearly eliminated the humanitarian threat posed by US devices.⁹⁴ The ICBL and ICRC drew on detailed technical studies from military and landmine clearance experts which disputed the ostensible importance of AP mines in integrated antivehicle systems and found that the self-destructing and self-deactivating technologies had much higher failure rates than US officials suggested.⁹⁵ In parallel, the ICBL and USCBL continued their advocacy efforts by arranging meetings between mine ban advocates and members of Congress as well as senior administration officials and coordinating extensive publicity efforts including letter-writing campaigns, newspaper editorials, and advertisements

Alternatives (Analysis in Support of the NATO SAS-023 APM Study)” (Oak Ridge, TN: U.S. Department of Energy, Lawrence Livermore National Laboratory, February 5, 2002), iii–iv, <https://e-reports-ext.llnl.gov/pdf/244934.pdf>.

⁹¹ United States General Accounting Office, “Military Operations: Information on U.S. Use of Land Mines in the Persian Gulf War. Report to the Honorable Lane Evans, House of Representatives” (Washington, D.C.: United States General Accounting Office, September 2002), 3, <https://www.gao.gov/new.items/d021003.pdf>.

⁹² *Ibid.*, 52–62, 67–69.

⁹³ Eugene Carroll et al., May 19, 2001, http://www.banminesusa.org/urg_act/990_generalstr.html; James Hollingsworth and Henry Emerson, “Land Mine Mindset,” *Washington Times*, February 25, 2001, <http://www.washingtontimes.com/news/2001/feb/25/20010225-021243-3822r/>.

⁹⁴ Department of State, United States of America, “Fact Sheet: Landmine Policy White Paper” (Bureau of Political-Military Affairs, Washington, D.C., February 27, 2004), http://www.fas.org/asmp/campaigns/landmines/FactSheet_LandminePolicyWhitePaper_2-27-04.htm.

⁹⁵ Human Rights Watch, “Memorandum for U.S. Policymakers on Landmines” (Human Rights Watch, November 2001), <https://www.hrw.org/legacy/press/2001/11/usamines.htm>. Herby interview.

in radio, television, print, and public spaces that highlighted US moral leadership in addressing the humanitarian impact of AP mines. The ICBL and members of Congress led by Senator Leahy also publicly and privately pressed the administration to refrain from using AP mines in military operations in Afghanistan and Iraq.⁹⁶

In February 2004 the administration unveiled its new landmine policy which it characterized as a “significant departure from past approaches” that would more effectively address the underlying causes of the global humanitarian crisis.⁹⁷ The Bush policy sought to reframe the international debate by treating *all* landmines—both antipersonnel and antivehicle—as part of the same broader problem where the weapons’ *persistence*, and not their inability to discriminate between soldiers and non-combatants, was the ultimate source of unacceptable humanitarian harm. The administration thus expanded upon the Clinton-era effort to exclude US uses of AP mines from censure by blaming “unprofessional, untrained and undisciplined militant groups” for using landmines in ways that contravened existing legal restrictions found in Amended Protocol II.⁹⁸ The Bush policy reinforced the US preference for technological solutions by committing the US to eliminate all non-self-destructing and non-self-deactivating mines by 2010, seek a binding global ban on export of non-self-destructing mines, and increase US funding for humanitarian mine action by 50%.⁹⁹ Moreover, the policy was unconditional—unlike Clinton’s—and contained no geographic exemption for Korea or anywhere else.¹⁰⁰ US officials explicitly positioned the 2004 policy as an improvement over the MBT which was said to suffer from an “absolutist, abolitionist

⁹⁶ International Campaign to Ban Landmines, “United States Country Report 2003,” in *Landmine Monitor* (New York: Human Rights Watch / ICBL, 2003), http://archives.the-monitor.org/index.php/publications/display?act=submit&pqs_year=2003&pqs_type=lm&pqs_report=usa&pqs_section= Bloomfield Jr. interview.

⁹⁷ Department of State, United States of America, “Fact Sheet: Landmine Policy White Paper”; Department of State, United States of America, “ON-THE-RECORD BRIEFING: Assistant Secretary of State for Political-Military Affairs Lincoln P. Bloomfield, Jr. On New Developments in the U.S. Approach to Landmines,” February 27, 2004, <https://2001-2009.state.gov/t/pm/rls/rm/29976.htm>.

⁹⁸ Department of State, United States of America, “Fact Sheet: Landmine Policy White Paper.”

⁹⁹ *Ibid.*

¹⁰⁰ Email exchange with Lincoln P. Bloomfield Jr., May 7, 2018.

and overly idealistic approach” that did not address the entirety of the humanitarian challenge or respect the legitimate military requirements of the US and other non-parties.¹⁰¹

While the 2004 announcement was a profound disappointment to mine ban advocates, it reiterated and further embedded the humanitarian language concerning AP mines as a baseline against which US actions could be assessed. In the broader political context, US efforts to legitimize “smart” self-destruction and self-deactivation technologies were again rejected by other states who had little enthusiasm for recognizing exceptions to a global prohibition on AP mines or endorsing US technical superiority, as had been the case with the Clinton administration’s failed efforts to shape the MBT negotiations. In other words, US diplomacy yet again failed to alter the underlying “rhetorical commonplaces” so as to gain endorsement for its preferred framing.

While the administration insisted upon the utility of its AP mines, therefore, in practice the continued denormalization of the weapons served to further raise the threshold for their future use. Under the 2004 policy the use of persistent “dumb” mines could only occur with explicit Presidential authorization, while the use of “smart” mines would normally require approval from the Secretary of Defense or a delegated subordinate – a standard not applied to other conventional weapons.¹⁰² The successful international resistance to US reframing also influenced domestic political debates in the Congress which had material consequences for military procurement. The two main proposed alternatives to AP mines—the XM-7 Spider and Intelligent Munition System (IMS)—were initially designed to include

¹⁰¹ Richard G. Kidd, “Post Nairobi Summit: Perspectives on Global Policies to End the Landmine Crisis” (Prepared Remarks at the United Nations Association of the United States of America (UNA-USA) Panel Discussion, New York, March 5, 2005), <https://2001-2009.state.gov/t/pm/rls/rm/43183.htm>.

¹⁰² Department of State, United States of America, “ON-THE-RECORD-BRIEFING”; International Campaign to Ban Landmines, “United States Country Report 2004,” in *Landmine Monitor* (New York: Human Rights Watch / ICBL, 2004), http://archives.the-monitor.org/index.php/publications/display?act=submit&pqs_year=2004&pqs_type=lm&pqs_report=usa&pqs_section=.

an autonomous victim-activation mode that would have violated the terms of the MBT.¹⁰³ In the face of public opposition from the ICBL, the US Congress sought to restrict funding for research and development into systems that contravened the MBT and required the Army to examine the humanitarian impact of the proposed systems, leading to the abandonment of victim-activation in the Spider system, elimination of an antipersonnel function altogether in IMS, and the cancellation of the mixed antipersonnel-antivehicle RADAM system.¹⁰⁴ Other systems—notably Matrix which was deployed to Iraq in 2005—were also developed solely in a command-detonated “soldier-in-the-loop” configuration.¹⁰⁵

Finally, the wider normative stigma undoubtedly informed the decision not to deploy AP mines with US forces in Afghanistan and Iraq. As one senior State Department official recalls “I told [US CENTCOM Commander General Tommy Franks in late 2001] that the world knew that the Shomali Plain was one of the most mine-affected areas on the planet and that it would not go unnoticed if the United States military in trying to save Afghanistan actually brought more land mines to Afghanistan.”¹⁰⁶ The cumulative effect of these policies was to effectively remove AP mines from the menu of options:

if we don't use landmines... the US military gets used to deploying which they certainly did in Afghanistan and then Iraq without bringing land mines as part of their war fighting kit... a time would come when junior officers became senior officers and their logistic teams, and their acquisition teams would have no memory of ever using landmines. It was simply atrophy and not being part of the military culture.¹⁰⁷

¹⁰³ In 2006 the Department of Defense requested \$1.66 billion for research and production of the Spider and IMS systems between 2007 and 2013. International Campaign to Ban Landmines, “United States Country Report 2009,” in *Landmine Monitor* (New York: Human Rights Watch / ICBL, 2009), n. 11, http://archives.the-monitor.org/index.php/publications/display?act=submit&pqs_year=2009&pqs_type=lm&pqs_report=usa&pqs_section=

¹⁰⁴ Inspector General of the United States Department of Defense, “Spider XM-7 Network Command Munition” (Washington, D.C.: Department of Defense, August 29, 2008); International Campaign to Ban Landmines, “United States Country Report 2007,” in *Landmine Monitor* (New York: Human Rights Watch / ICBL, 2007), http://archives.the-monitor.org/index.php/publications/display?act=submit&pqs_year=2007&pqs_type=lm&pqs_report=usa&pqs_section=; International Campaign to Ban Landmines, “United States Country Report 2009”.

¹⁰⁵ Human Rights Watch, “Back in Business? U.S. Landmine Production and Exports,” Briefing Paper (Human Rights Watch, August 2005), <https://www.hrw.org/legacy/backgrounder/arms/arms0805/arms0805.pdf>.

¹⁰⁶ Bloomfield Jr. interview and email exchange with Bloomfield Jr.

¹⁰⁷ Bloomfield Jr. interview.

As would be expected, rhetorical maneuvering did not succeed in convincing either side of the substantive merits of their interlocutor's position. Yet the political impact was considerable, as it forced the US government and military to repeatedly justify their existing policy, rather than treating AP mines as unproblematic. Rhetorical entrapment did not change minds within the administration, therefore, but the concerted pressure did meaningfully shape the trajectory of US policy, leading to a further eight years where AP mines did not feature in US warfighting.

The Obama administration

The inauguration of President Barack Obama was widely hailed as a marking a renewed US commitment to multilateralism. During his time in the Senate Obama cosponsored Senator Leahy's bill that would have prohibited US antipersonnel mine development and as President-elect had expressed his "[strong] support [for] international initiatives to limit harm to civilians caused by conventional weapons."¹⁰⁸ President Obama was reportedly personally invested in the issue and other senior officials—notably National Security Council adviser Samantha Power and State Department Legal Adviser Harold Koh—were believed to support US ratification.¹⁰⁹ This increased engagement generated renewed impetus among civil society advocates who regarded the MBT as a symbolic way for the Obama administration to “show a new face to the world.”¹¹⁰

The comparative sensitivity of the new administration to external critique enhanced the prospects of rhetorical entrapment. This was evident early on, when the administration

¹⁰⁸ Arms Control Today, “2008 Presidential Q&A: President-Elect Barack Obama,” *Arms Control Today* 38, no. 10 (December 2008): 36.

¹⁰⁹ Interview with senior Obama administration official, Washington, D.C., October 24, 2017; Rieser interview; Wareham interview; Inderfurth interview.

¹¹⁰ Herby interview; similarly: Abramson interview; Interview with Juan Carlos Ruan, Director of the Implementation Support Unit of the AP Mine Ban Convention, Geneva, August 22, 2017; and telephone interview with former member of ICBL staff, October 17, 2018.

initially announced in November 2009 that it would retain the Bush-era landmine policy. This cursory decision elicited an immediate and vehement response from the ICBL and Senator Leahy.¹¹¹ The force of the criticism caught Obama officials off guard and resulted in a public reversal the next day and the initiation of a much more substantial policy review.¹¹² A senior State Department official characterized this as a serious, whole-of-government process that involved extensive discussions with NGOs, diplomats, and Senator Leahy's office.¹¹³ The administration was explicit in its endorsement of the "humanitarian goals" of the AP mine ban and was adamant that the objective of the review was "not simply to reassess the current utility of our non-persistent mine systems for certain mission requirements, but to specifically examine the costs and benefits that would be involved in a decision to accede to the [Mine Ban] Treaty."¹¹⁴ While administration officials recognized the reputational gains from endorsing the AP mine ban, they faced enduring opposition from the senior military leadership. The policy review thus focused on evaluating the viability of alternative weapons systems that could replace AP mines in operational plans for the defense of Korea.¹¹⁵

Pro-norm actors deliberately leveraged the administration's desire to be seen as proactive participants in the international humanitarian effort and effectively instrumentalized shame and inclusion through extensive op-eds, letter-writing campaigns, and in-person meetings targeting administration officials and US diplomats posted to mine-affected and

¹¹¹ International Campaign to Ban Landmines, "ICBL Condemns U.S. 'Closed Door' Renewal of Landmine Policy," November 26, 2009, <http://www.icbl.org/media/931141/ICBL-Condemns-Use.pdf>; Human Rights Watch, "US: Obama Should Join Mine Ban Treaty" (Human Rights Watch, November 25, 2009), <https://www.hrw.org/news/2009/11/25/us-obama-should-join-mine-ban-treaty>. According to one senior Human Rights Watch representative, their press release "was the one that really got the administration's attention. Officials were shocked HRW could be so critical. But it worked." Email exchange with Mary Wareham, May 20, 2019.

¹¹² Chayer interview; Rieser interview.

¹¹³ Interview with senior Obama administration official.

¹¹⁴ Letter from National Security Adviser General (retired) James Jones to Senator Patrick Leahy, quoted in International Campaign to Ban Landmines, "United States Mine Ban Policy 2010," October 18, 2010, http://archives.the-monitor.org/index.php/cp/display/region_profiles/theme/312..

¹¹⁵ Interview with senior Obama administration official.

pro-ban countries.¹¹⁶ The ICBL and USCBL made regular reference to President Clinton’s 1994 UNGA speech calling for an eventual ban on AP mines and solicited a letter from fellow Nobel Prize laureates urging President Obama to join the Mine Ban Treaty.¹¹⁷ Senator Leahy organized a letter from 68 Senators—along with a parallel letter from members of the House of Representatives—that appealed to Obama as a former colleague and advocated prompt ratification of the MBT by specifically engaging with stated official reasons for not joining the treaty.¹¹⁸ After the US condemned the Syrian government for using AP mines, Human Rights Watch (which chairs the ICBL) called on the Obama administration to act on its criticism by joining the mine ban itself.¹¹⁹ In parallel, the ICBL and USCBL utilized their position of expertise to bolster pro-ban members of the administration by providing information concerning US landmine doctrine and alternatives.¹²⁰

As an interim measure, the US began sending an official observer delegation to MBT meetings for the first time since the Clinton administration, a move that was intended to signal that “[t]he Administration is strongly committed to continued U.S. global leadership in eliminating the humanitarian risks posed by landmines.”¹²¹ MBT officials described this as “a huge step” that showed the US was “part of this community of states, even though [they] are not party to the instrument.”¹²² Beyond the symbolism, the meetings offered an important venue for rhetorical entrapment. Of particular importance were private ICBL-organized

¹¹⁶ Interview with former member of ICBL staff.

¹¹⁷ Human Rights Watch, “US: Nobel Laureates Urge Obama to Ban Landmines,” November 30, 2010, <https://www.hrw.org/news/2010/11/30/us-nobel-laureates-urge-obama-ban-landmines..>

¹¹⁸ Patrick Leahy and et al., “Letter to President Barack Obama Concerning Antipersonnel Mines,” May 18, 2010, <http://www.banminesusa.org/downloads/letters/letter-from-senate.pdf>.

¹¹⁹ Human Rights Watch, “US: Follow Up Rebuke to Syria on Landmines,” April 4, 2012, <https://www.hrw.org/news/2012/04/04/us-follow-rebuke-syria-landmines>.

¹²⁰ Wareham interview.

¹²¹ United States of America, “Statement by the United States Delegation: US Landmine Policy” (Second Review Conference of the Antipersonnel Mine Ban Convention (Cartagena Summit on a Mine-Free World), Cartagena, Colombia, December 1, 2009), <http://www.cartagenasummit.org/fileadmin/APMBC-RC2/tuesday/2RC-Item9c-1Dec2009-USA.pdf>.

¹²² Interview with Sofie Delfolie, Implementation Support Specialist, Implementation Support Unit of the AP Mine Ban Convention, Geneva, August 25, 2017.

meetings between members of the US delegation and landmine survivors—particularly from Afghanistan, Iraq, and South East Asia—who spoke about their traumas and urged the US to commit fully to the mine ban. This helped generate and then maintain political commitment within the bureaucracy by making US officials accountable to affected communities: “people who represent the United States in those meetings... have to write reports back to their superiors.... It shows that the pressure is still on. Civil society is not giving up.”¹²³

In 2014 the Obama administration issued two policy updates that brought the US into closer alignment with the MBT. In June the US committed not to “produce or otherwise acquire any anti-personnel munitions that are not compliant with the Ottawa Convention in the future.... Meanwhile, we are diligently pursuing other solutions that would be compliant with the Convention and that would ultimately allow us to accede to the Convention.”¹²⁴ The timing of this announcement at the Third MBT Review Conference was significant, as the ICBL had identified this meeting as a focal point for pressuring the Obama administration to finalize their policy review.¹²⁵ A former ICBL official recalls that US diplomats had anticipated campaigner concerns and came ready to explain the policy and its potential future trajectory.¹²⁶ In one telling detail, the US admitted that its forces had used a single AP mine during the war in Afghanistan.¹²⁷ The fact that an MBT non-party felt compelled to acknowledge a minor transgression of a treaty for which it had no legal obligations is further evidence of the extent of the global stigma concerning the weapons. In private, US officials reportedly expressed “how horribly they felt about it.... [T]hey felt they had to come clean

¹²³ Chayer interview.

¹²⁴ United States of America, “Statement by Ambassador Griffiths.”

¹²⁵ Wareham interview.

¹²⁶ Interview with former member of ICBL staff.

¹²⁷ Department of State, United States of America, “Daily Press Briefing with Marie Harf,” June 27, 2014, <http://www.state.gov/r/pa/prs/dpb/2014/06/228539.htm#MISCELLANEOUS>. Reportedly this was a pursuit-deterrent mine deployed by US special forces; Wareham interview.

and acknowledge that as part of their whole process.... That fear of being found out and for an NGO to publish that rather than them was why they came clean.”¹²⁸

The June statement made clear that “[o]ther aspects of our landmine policy remain under consideration.”¹²⁹ This offered renewed impetus for the ICBL and others to push the US for full adherence.¹³⁰ In September 2014 the US committed to “not use [AP mines] outside the Korean Peninsula; not assist, encourage, or induce anyone outside the Korean Peninsula to engage in activity prohibited by the Ottawa Convention; and undertake to destroy [AP mine] stockpiles not required for the defense of the Republic of Korea” and reaffirmed its position as the leading funder of humanitarian mine action globally.¹³¹ Significantly, President Obama made this announcement in a speech at the Clinton Global Initiative that directly referenced President Clinton’s 1994 call for an eventual ban on AP mines and the decisive leadership of the ICBL and Senator Leahy.¹³² According to some NGO leaders, Obama deliberately selected this venue and framing as a way to “close the circle... and complete the work that Clinton began 20 years ago.”¹³³

The 2014 landmine policy represents a negotiated compromise between an administration that was sensitive to international normative appeals and senior military leadership that continued to regard AP mines as an “important tool in the arsenal of the United States” in light of increasing tensions on the Korean Peninsula.¹³⁴ Korea has therefore served as a “trump card” for the military to oppose the mine ban as more specific technical justifications have lost salience.¹³⁵ But while concerted pressure from domestic and

¹²⁸ Wareham interview.

¹²⁹ United States of America, “Statement by Ambassador Griffiths.”

¹³⁰ United States Campaign to Ban Landmines, “Letter to President Barack Obama,” September 12, 2014, <http://www.banminesusa.org/downloads/letters/uscbl-letter-to-obama-12sep2014.pdf>. Interview with former member of ICBL staff.

¹³¹ United States of America, “FACT SHEET: Changes to U.S. Anti-Personnel Landmine Policy.”

¹³² Obama, “Remarks by the President at Clinton Global Initiative.”

¹³³ Wareham interview.

¹³⁴ Dempsey, Fiscal Year 2015.

¹³⁵ Perry interview; similarly, Rieser interview.

transnational advocates was ultimately unable to overcome this intractable issue, rhetorical entrapment stimulated successive policy changes that have further marginalized AP mines in US national security policy. The Obama administration notably abandoned the previous language concerning US “smart” mines and the 2014 announcements renewed US commitments to technological solutions through “a high fidelity modeling and simulation effort to ascertain how to mitigate the risks associated with the loss of anti-personnel landmines.”¹³⁶ At the same time, existing AP mine stockpiles are being withdrawn or will soon enter obsolescence: all persistent antivehicle and antipersonnel mines were destroyed in 2010, while the 2014 policy bars the US from extending the operational life of current self-destructing mines by replacing their batteries.

Removing AP mines from the regular military toolkit has further reinforced the exceptional status of the weapons. As one US Congressional official put it, despite official protestations to the contrary

I think [the Pentagon] realized that the arguments that they had been making for years just didn’t hold up any longer. They hadn’t used [AP mines] for twenty years, and they knew that if they did, they would be severely criticized.... [I]t would be politically very damaging.... As long as they could use AP mines in Korea, that was what they said they cared about.¹³⁷

Despite this shift, the current Department of Defense *Law of War Manual* declares that the MBT’s “prohibitions do not reflect customary international law” and US adaptation remains the product of pressure rather than wholesale persuasion.¹³⁸

¹³⁶ United States of America, “Statement by Ambassador Griffiths.”

¹³⁷ Rieser interview and email exchange, May 20, 2019.

¹³⁸ Office of General Counsel, Department of Defense, “Law of War Manual” (United States Department of Defense, December 2016), 402, <https://dod.defense.gov/Portals/1/Documents/pubs/DoD%20Law%20of%20War%20Manual%20-%20June%202015%20Updated%20Dec%202016.pdf>.

CODA: THE TRUMP ADMINISTRATION AND THE FUTURE OF US
ANTIPERSONNEL MINE POLICY

The presidency of Donald Trump has called into question many of the fundamental features of US foreign policy. It is therefore reasonable to ask whether informal US observance of the mine ban norm can survive contact with an administration that has demonstrated itself to be especially hostile to international restraints. Indeed, policy changes based on cost-benefit calculations rather than norm internalization are more vulnerable to reversal should the target no longer respond to opprobrium and praise as before. And President Trump and his advisors are clearly not susceptible to stigmatization on the basis of “liberal” norms as his predecessors have been.

Yet I contend that the path dependencies generated by rhetorical entrapment point towards sources of policy stability that will likely endure even as President Trump seeks to undo the Obama administration’s legacy in other areas. While the 2014 policy was enacted via a presidential announcement that may be reversed, other facets of US landmine policy (such as legislative moratoria) are outside the purview of the executive branch while re-integrating AP mines into military arsenals would require costly commitments with respect to research, production, procurement, and training. The diffuse nature of institutional adaptation has increased the military, political, and diplomatic veto points to policy change while the diminishment of AP mines in US security policy has greatly reduced the constituencies that might agitate for a revival of this capacity.¹³⁹ At the same time, the international stigma has not abated; according to one mine ban official, therefore, “we don’t expect the US to be using [antipersonnel mines] again, or producing or transferring.... I don’t believe they would stoop that low.”¹⁴⁰

¹³⁹ Chayer interview; Maresca interview; Rieser interview.

¹⁴⁰ Ruan interview.

In this light, it is significant that the Trump administration has not formally announced any intention to conduct a policy review and has continued its predecessor's engagement with the mine ban including by sending observer delegations to recent MBT meetings.¹⁴¹ US funding for humanitarian demining appears to have remained stable—and even increased in 2017—despite dramatic cuts proposed to State Department budgets in other areas.¹⁴² US officials continue to call for “a robust international partnership with the shared goal of reducing the impact of landmines around the world” while avoiding references to the 2014 Obama policy.¹⁴³ Tellingly, there has not been any resurgence of claims concerning the necessity of AP mines as recently experienced with cluster munitions.¹⁴⁴

Thus far, the AP mine ban has not caught the attention of an administration well known for its belligerent approach to foreign policy. Given President Trump's antipathy to other international commitments, many advocates of the mine ban have deliberately avoided forms of public and private engagement with the administration. A senior member of Human Rights Watch explains that “[w]e look like we're inactive, but we're scared of writing letters, making proposals, op-eds, direct contact with Trump administration advising them to do something on some policy issue because we're worried they're going to do the exact opposite

¹⁴¹ Department of State, United States of America, “Briefing on Release of the 16th Annual To Walk the Earth in Safety Report by Tina S. Kaidanow, Principal Deputy Assistant Secretary, Bureau of Political-Military Affairs” (Washington, D.C., December 13, 2017), <https://www.state.gov/r/pa/prs/ps/2017/12/276589.htm>; International Campaign to Ban Landmines, “United States Mine Ban Policy,” October 9, 2018, <http://www.the-monitor.org/en-gb/reports/2019/united-states/mine-ban-policy.aspx>.

¹⁴² United States Mission to the United Nations, “Remarks at a UN Security Council Briefing on the Threat Posed by Landmines, Explosive Remnants of War, and Improvised Explosive Devices by Amy Tachco, Political Coordinator, U.S. Mission to the United Nations” (United Nations Security Council, New York, June 29, 2018), <https://usun.state.gov/remarks/8505>.

¹⁴³ Department of State, United States of America, “UN International Day for Mine Awareness and Assistance in Mine Action, Press Statement by Heather Nauert, Department Spokesperson,” April 4, 2018, <https://www.state.gov/r/pa/prs/ps/2018/04/280207.htm>.

¹⁴⁴ Deputy Secretary of Defense, United States of America, “Memorandum for Secretaries of the Military Departments, Chairman of the Joint Chiefs of Staff, Under Secretaries of Defense, Commanders of the Combatant Commands, General Counsel of the Department of Defense, Director of Cost Assessment and Program Evaluation” (Department of Defense, United States of America, November 30, 2017), <https://dod.defense.gov/Portals/1/Documents/pubs/DOD-POLICY-ON-CLUSTER-MUNITIONS-OSD071415-17.pdf>.

if it comes from [us].”¹⁴⁵ Ironically, therefore, in the present moment the most effective way for pro-norm advocates to consolidate previous concessions may well be to avoid further engagement.

CONCLUSION

This article shows how rhetorical entrapment can work to constrain even a predominantly powerful state in the challenging conditions of national security politics, and where the target remains outside the relevant legal agreement. Rather than a top-down process initiated by senior officials, US engagement with the mine ban movement was precipitated by intensive advocacy from transnational civil society and a limited number of US political elites. These actors strategically leveraged America’s preeminent position to emphasize its disconnect from a broad-based international moral movement. This mobilization of factual and normative claims provoked a range of incremental responses that in turn enabled further scrutiny. Successive administrations have refused to endorse the AP mine ban in its entirety, but notably failed to generate international acceptance of their preferred alternative framings. The evolution of US antipersonnel mine policy is therefore best understood not as a straightforward adaptation to changed material conditions but rather a response to coordinated social pressure that altered underlying cost-benefit calculations and pushed the leading military power to gradually and at times reluctantly align its policy with its stated ambitions. These concessions have compounded over time to almost completely remove AP mines from American warfighting plans.

To the extent that rhetorical entrapment can explain policy change in this hard case, it is reasonable to assume that the theoretical mechanism would operate in other contexts as well. To conclude, I briefly sketch a research agenda for studying the process and impact of

¹⁴⁵ Wareham interview.

stigmatizing treaty non-members based on the scope conditions identified above. First, more could be said about the targets of rhetorical entrapment. I have argued that the US's status as a liberal hegemon makes it a particular target for allegations of bad conduct. Yet even authoritarian and illiberal regimes can face social costs from transgressing widely-accepted international norms. Interestingly, other prominent MBT non-parties like China and Russia have demonstrated sensitivity to the mine ban norm by endorsing the spirit of a global prohibition, adhering to many provisions, and, in the case of Russia, concealing alleged violations.¹⁴⁶ A useful first step would therefore be to examine efforts at rhetorical entrapment concerning AP mines against other resistant states as well as armed non-state actors that have recently been shown to be susceptible to normative appeals under some circumstances.¹⁴⁷ A comparative study of this kind could help to reveal characteristics such as bureaucratic structures and political ideology that facilitate or impede rhetorical entrapment.

Yet the perceived material and political costs of policy choices are not intrinsic to particular topics but are intersubjectively constructed and thus the product of concerted agency. The present case study reinforces the vital importance of coordination between transnational civil society and domestic political elites whose diversity and cohesion provided the strategic social conditions for rhetorical entrapment against the US. This raises the question of whether other prominent humanitarian movements—such as the bans on cluster munitions and nuclear weapons—as well as earlier prohibitory norms concerning chemical, biological, and blinding laser weapons have experienced similar success with respect to the US or other states. Cluster munitions represent the most direct analogue to the

¹⁴⁶ Adam Bower, *Norms Without the Great Powers: International Law and Changing Social Standards in World Politics* (Oxford: Oxford University Press, 2017), 100–122.

¹⁴⁷ Hyeran Jo, *Compliant Rebels: Rebel Groups and International Law in World Politics* (Cambridge: Cambridge University Press, 2015); Tanisha M. Fazal and Margarita Konaev, “Homelands versus Minelands: Why Do Armed Groups Commit to the Laws of War?” *Journal of Global Security Studies* 4, no. 2 (April 2019): 149–68; Bower, *Norms Without the Great Powers*, 111–12.

AP mine ban and here too similar—albeit more modest—stigmatizing effects are visible. The US has not used cluster munitions since the 2003 invasion of Iraq (with one exception in 2009). Public criticism of sales of the weapons to Saudi Arabia, and their subsequent use in Yemen, led to a suspension on exports globally in 2016; the last US company stopped producing cluster munitions in 2016, while the Air Force has announced a search for alternatives.¹⁴⁸ Further studies could examine rhetorical entrapment with respect to the US and other prominent non-parties that have asserted objections to the global ban yet also show signs of the effects of a growing international opprobrium concerning the weapons.¹⁴⁹ By contrast, the much more recent global movement to ban nuclear weapons has thus far struggled to generate support amongst nuclear weapons states and their allies. A cross-issue comparative study would help shed further light on further factors—such as the type of cooperative challenge, institutional design, and distribution of actor interests—that shape (in)effective stigmatization efforts.

Third and finally, rhetorical contests play out against the backdrop of a more fundamental set of shared values and discursive frameworks that prominently include the language and practices of international law. Comparing the dynamics and impact of rhetorical entrapment in the context of multilateral treaties such as the MBT with non-legalized norms would contribute to ongoing debates concerning the effects of institutionalization on norm development.¹⁵⁰ More fundamentally, it is worth carefully examining how the apparent rise of “post-truth” politics will transform the deployment and efficacy of rhetorical entrapment in circumstances where foundational meta-narratives and the very prospect for discerning facts

¹⁴⁸ Cluster Munition Coalition, “Cluster Munition Monitor 2018” (Geneva: International Campaign to Ban Landmines - Cluster Munition Coalition, August 2018), 21, 23, 45–46, http://www.the-monitor.org/media/2907293/Cluster-Munition-Monitor-2018_web_revised4Sep.pdf; Cluster Munition Coalition, “United States Cluster Munition Ban Policy,” August 2, 2018, <http://www.the-monitor.org/en-gb/reports/2019/united-states/cluster-munition-ban-policy.aspx>.

¹⁴⁹ Cluster Munition Coalition, “Cluster Munition Monitor 2018,” 10 and 13–25.

¹⁵⁰ Deitelhoff and Zimmermann, “Norms under Challenge,” 10.

become the subject of contestation.¹⁵¹ Political elites that are willing to adopt the language of “fake news” may be able to resist the kind of external pressure described above.

Yet this study has also highlighted reasons for optimism for those seeking to bind resistant actors more closely to global norms. US adaptation to the AP mine ban did not occur in a single moment, but through a gradual accretion of discursive and policy changes in response to external pressure, which set the stage for further engagement. Over time, individually modest shifts created path dependencies that limited the range of options available to decisionmakers leading to the near-total abandonment of a once ubiquitous weapon by the world’s preeminent military. In other words, while rhetorical entrapment functions first by exploiting social costs of non-conformance, forms of bureaucratic—rather than psychological—internalization can sustain its effects even when shame and prestige lose potency. This suggests that current US landmine policy will endure despite fluctuations in political leadership.

¹⁵¹ Luke Glanville, “The Limits of Rhetorical Entrapment in a Post-Truth Age,” *Critical Studies on Security*, February 27, 2018, 1–4.