

“For a Nuclear Free, Peaceful, Just and Sustainable World”

Conference

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The Nuclear Weapons Convention

How to Prohibit and Eliminate Nuclear Weapons of Mass Destruction

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I am pleased to be a sponsor of this workshop and also, to have the opportunity to speak today. I have long been a supporter of a Nuclear Weapons Convention; and it is my hope that a Treaty for the complete elimination and total ban of nuclear weapons will come to fruition within my lifetime.

Our participation with regard to the Nuclear Weapons Convention began in 1999 when The Simons Foundation convened a conference on Legal and Political Strategies for the Elimination of Nuclear Weapons. A major topic in our discussions was the feasibility of promoting the draft Model Nuclear Weapons Convention. The following year The Simons Foundation participated in, and funded, a tour of the Draft Model Nuclear Weapons Convention to University Law faculties across Canada. The consensus at our conference and the responses garnered from the tour was that it was an important undertaking, but the time was not right to achieve significant support.

Support is now growing for the Model Nuclear Weapons Convention, which was updated and submitted to the United Nations in 2007 by the governments of Costa Rica and Malaysia. The concern I have with the Model Nuclear Weapons Convention is that the consensus remains that it is still premature. Certainly, the Canadian Government holds this position and even though the International Commission on Nuclear Non-Proliferation and Disarmament supports continuing development of the Nuclear Weapons Convention, it places it in the future.

Alyn Ware, too, in his thoughtful Concept Paper, suggests that “it is perhaps too early to commence actual negotiations” and poses the question “Is a preparatory process – to undertake for a Nuclear Weapons Convention, practical, useful and timely?”¹

Alyn points out that both the reports of the Swedish Weapons of Mass Destruction Commission (WMDC) and the International Commission on Nuclear Non-Proliferation and Disarmament (ICNND) recommend that “a comprehensive approach ... must be done in conjunction with work on initial disarmament steps to ensure that such steps can be universally acceptable and thus will succeed.”²

However, the ICNND recommendations suggest that it be an intellectual, or academic exercise, that is to say, that “work should commence now ... on further refining and the developing the concepts in the model convention now in circulation, making its provisions as workable and realistic as possible, with the objective of having a fully worked thorough draft available to inform and guide multilateral disarmament negotiations as they gain momentum.”³

Further, the Nuclear Weapons Convention is an advisory, exploratory document to serve as a guide, and the road to zero will not commence until the Nuclear Weapons Convention enters into force.

¹ Alyn Ware, *Preparatory process for a Nuclear Weapons Convention: practical, useful, timely?* Jan. 2010

² Ware, 2010, p.2

³ www.icnnd.org/reference/reports/ent/icnnd_synopsis.html

It seems to me, that we can no longer afford delays. It is not too early to commence a negotiating process. The elimination of nuclear weapons is a slow enough process anyway. And, as the ICNND states “*it is sheer luck that the world has escaped such catastrophe until now*”.⁴ We cannot continue at this snail’s pace, refining a document so that it is acceptable at some point in the future. And then wait for signatures, ratifications and entry into force.

It is essential that concrete, practical and action-oriented work – negotiations - begin immediately; that comprehensive work in all aspects of treaty-building – concurrent elimination with legal binding agreements on the practical and technical aspects, leading to the ultimate prohibition of nuclear weapons start at the soonest possible moment.

To begin immediately, first of all, for the simple reason that it will take years to put in place all the necessary legal and technical measures, and to actually dismantle, destroy and rid the world of the weapons.

And secondly, to begin immediately, in order to convince governments and the general public that nuclear disarmament is an urgent priority; and that it is an essential cornerstone in resolving the issue of nuclear proliferation and that *time is running out*. And to demonstrate to those states with nuclear ambitions, that nuclear weapons are no longer acceptable.

To begin immediately, because President Obama has made it a priority - an agenda item - to work for a world free of nuclear weapons. And we must demonstrate that we are taking him at his word and *we expect him to follow through*. This welcome opportunity may be short-lived, that is to say, only within the time frame of his presidency – a minimum of 6 months - to November’s midterm elections - and a maximum of seven years.

The Government of Costa Rica submitted a Working Paper together with the Nuclear Weapons Convention. Point Number 10 in this Working Paper recognizes that “political, legal and technical development during nuclear disarmament negotiations could result in an actual negotiated Nuclear Weapons Convention or package of agreements that might be similar to some aspects ... and differ in other aspects to this Convention.”⁵

I am a Founding Partner and Principal Sponsor of Global Zero. Hans Blix, Chair of the Weapons of Mass Destruction Commission, and Co-Chairs, Gareth Evans and Yoriko Kawoguchi, of the ICNND, are Principal Signatories of Global Zero. Many of the members of both Commissions are also Principal Signatories. Too, Former Prime Minister of Australia, Malcolm Fraser who is spearheading the ICAN Campaign - for which I am also providing funding - is a Global Zero Principal Signatory. Ban Ki-Moon, as well, has given his full support for Global Zero.

The Global Zero Action Plan is a concrete plan for negotiations to begin immediately, that is to say, in the first of the four-phase Action plan, which calls for a concurrent process of both *reductions* to zero *and a treaty* – *the Global Zero Accord* – eliminating and outlawing nuclear

⁴ ICNND

⁵ *NPT/CONF.2010/PC.I/WP.17*

weapons by 2030. The Global Zero Action Plan develops the necessary steps, the political, legal and technical measures and ongoing formation of a treaty building process.

This is not a static plan - one on which the Global Zero Commissioners have signed off and gone their ways! The Commission will continue to examine the political and security issues with which states will be confronted. They will continue to examine the progress, the process, with the goal of ensuring that the Action Plan remains relevant in the context of emerging issues. Discussions with key governments are taking place and will be ongoing.

The Four-Phase Action Plan requires Agreement building on Agreement, beginning with bilateral Agreements between the United States and Russia and a commitment by other nuclear weapons states to freeze their arsenals; a follow-on multilateral Agreement among the nuclear weapons states to reduce their arsenals proportionately; and a follow-on multilateral Agreement to eliminate their weapons in concert with Russia and United States. This last Agreement, which would include all the nuclear capable states, and ultimately opens for signature to all states, would be the equivalent to a nuclear weapons convention whose details would capture the results of the previous Agreements.

PRESENT POWER POINT GZ ACTION PLAN (See www.globalzero.org for *Global Zero Action Plan*)

Jonas Gahr Store, the Norwegian Minister of Foreign Affairs, at the recent Norwegian Atlantic Committee Conference, makes reference to the Landmine Convention and the Convention on Cluster Munitions - successful essentially civil society initiatives -and says that “*we cannot leave it to the nuclear weapon states alone to decide when it is time for them to do away with these weapons*” and questions the fairness of letting “*the fate of our planet be determined by a handful of countries?*”⁶

His point is well taken. However landmines were considered by the military to be peripheral weapons; and even though still in use by some countries, redundant; and replaced by smart weapons. Cluster munitions were the unfinished business of the landmine treaty, and again not essential to modern warfare.

Nuclear Weapons, on the other hand are cornerstones, central to political and military security strategy. Without the participation of the nuclear weapons states, attempts to ban them would be futile because the fact is, nuclear weapons states call the shots because to possess a nuclear weapon is to possess the power. So an elimination and treaty process *has to be* initiated and carried out by the nuclear weapons states.

Where the Ottawa and Oslo processes can be adapted to work for the elimination of nuclear weapons and a treaty banning them, is for governments of the non-nuclear weapons states, for non-governmental organizations, and for civil society, to promote Global Zero and the Global Zero Action Plan, - a plan more suited to the prohibition of a weapon considered central to

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www.regjeringwn.no/en/ud/aktuelt/taler/utenriksministeren/2010/disarmament.html?id+5912550

state's military security. And provide support to, and pressure on, the nuclear weapons states to engage in this series of step-by-step building block process of bi-lateral to multi-lateral treaties culminating in a universal treaty prohibiting nuclear weapons.

This support building could begin with Middle Powers Initiative promoting the Global Zero Action Plan to the members of the former New Agenda Coalition and to other middle power states. I am a Founding member of Middle Powers Initiative and The Simons Foundation was its principal funder. Middle Powers Initiative Chair, Henrik Salandar and former Chair, Doug Roche are Principal Signatories of Global Zero. The Simons Foundation was also the initial funder of the Parliamentary Network for Nuclear Disarmament. This organization could promote the Global Zero Action Plan to parliaments and congresses around the world. The Mayors for Peace organization – who I know prefer an earlier date for elimination - could promote Global Zero and Global Zero Action plan to its member cities.

So my answer to the question Alyn Ware poses is that ***activity should proceed on all fronts***: 1) the promotion of the Global Zero Action Plan; 2) proceeding with the return of the question on the illegality of nuclear weapons to the International Court of Justice for a definitive opinion citing the 1963 *Shimoda* case⁷; 3) work should continue on the Rome Statute to have the use of nuclear weapons added to list of what constitutes a crime against humanity. We should investigate what can be done to remove the Reservations that the Convention was not applicable to nuclear weapons, which France and United States attached to the Genocide Convention.

Alyn's suggestion that the Weapons of Mass Destruction Commission recommendation for the Nuclear Weapons States to "accept the principle that nuclear weapons should be outlawed, as are biological and chemical weapons" should also be pursued.⁸

However, these legal actions and subsequent rulings are irrelevant to non-state actors. They will not deter terrorists for whom humane/inhumane and the sanctity of life has no meaning. These mad men and mad women are not like the Kamikaze pilots who acted on state military orders. These are individuals who have chosen to destroy themselves. Their lives have no meaning for them so laws and rules are meaningless. Only immediately starting the continuing process of ridding the world of these weapons is our only hope to defeat this threat.

The preparatory process towards a Nuclear Weapons Convention should begin as an action-oriented undertaking to immediately and continually engage in negotiations to reduce nuclear arsenals in a safe, secure legally binding manner as described in the Global Zero Action Plan.

I am in the position of supporting, and providing significant funds for, the two differing approaches for the prohibition of nuclear weapons – a traditional form, and a more radical process following the routes of the Ottawa and Oslo Treaties. As the Government of Costa Rica

⁷ Yuki Tanaka and Richard Falk, "The Atomic Bombing, The Tokyo War Crimes Tribunal and the Shimoda Case: Lessons for Anti-Nuclear Legal Movement," *The Asia-Pacific Journal*, Vol.44—3-09, November 2, 2009

⁸ Ware, 2010

Working Paper acknowledges, these are not competing proposals. It is also consistent with Point Number One of Ban Ki-Moon's 5-point plan for disarmament.

The two ways of reaching the same goal can, perhaps, feed from each other. Would Global Zero Action Plan speed the development and acceptance of the Model Nuclear Weapons Convention? Would the concepts of the Draft Nuclear Weapons Convention be refined and adapted to accommodate the approach called for in the Global Zero Action Plan, and its signature, ratification and entry into force be the culmination of the Global Zero Action Plan process? I am asking these questions! I don't have the answers! However, I do believe we cannot wait any longer – sleepwalking to Armageddon, I think Kofi Annan called it. We have to take action before we have a catastrophe, to quote Gareth Evans, “by accident, miscalculation or design.”⁹

Thank you very much.

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⁹ ICNND