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The CADMUS Journal

The acronym of the South-East European Division of The World Academy of Art and Science – SEED – prompted us to initiate a journal devoted to seed ideas - to leadership in thought that leads to action. Cadmus (or Kadmos in Greek and Phoenician mythology) was a son of King Agenor and Queen Telephassa of Tyre, and brother of Cilix, Phoenix and Europa. Cadmus is credited with introducing the original alphabet – the Phoenician alphabet, with “the invention” of agriculture, and with founding the city of Thebes. His marriage with Harmonia represents the symbolic coupling of Eastern learning and Western love of beauty. The youngest son of Cadmus and Harmonia is Illyrius. The city of Zagreb, which is the formal seat of SEED, was once a part of Illyria, a region including what is today referred to as the Western Balkans and even more. Cadmus will be a journal for fresh thinking and new perspectives that integrate knowledge from all fields of science, art and humanities to address real-life issues, inform policy and decision-making, and enhance our collective response to the challenges and opportunities facing the world today.

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Sovereignty and Nuclear Weapons: The Need for Real Sovereign Authority Rooted in the People's Global Expectations about Survival, Peace and Security

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Abstract

The current international security framework is based on an incomplete, anachronistic conception of sovereignty shaped largely by historical circumstance rather than principles of universal justice. Evolution of the global community over the past half century necessitates a reformulation of the concept to justly represent the rights of individual citizens and the global community as a whole. The reconceptualization of sovereignty is an essential condition for the elimination of major threats to global security, most especially those arising from the continued existence and proliferation of nuclear weapons and other weapons of mass destruction.

Two decades after the demise of the Cold War, the proliferation of nuclear weapons and the possibility of nuclear war still represent the single greatest threat to global peace and security, human health, well-being and the environment of our planet. The fundamental source of this threat is not accidental detonation or nuclear theft by a terrorist organization, but rather the continued insistence by the nuclear weapons states that possession, threat of use and actual use of nuclear weapons under some circumstances are legitimized under international law. At the heart of this claim lies their assertion of a right to self-defense as territorially-organized, sovereign nation-states. Thus, the rights of national sovereignty are juxtaposed to those of humanity and the global community as a whole and the concept of sovereignty is made a central pillar of the prevailing global security system.

It is important to keep in mind that the distinctive character of nuclear weapons is that they have the capacity for global mass destruction. They represent humanity's greatest existential threat. An inquiry into the relationship between nuclear arsenals and sovereignty raises an important question: Where is the authority to be located to validate or justify the creation, threatened use or actual use of nuclear weapons? In practice, it appears that nuclear weapons fall under the authority of the sovereign state and its claim to defend its vital national interests or existence. Such an inquiry requires a more critical understanding of the authority foundations of both sovereignty and humanity under current conditions of world order. We explore this question in the context of the historical evolution of sovereignty itself.

1. Origins of Sovereignty

The theoretical basis for national sovereignty evolved with the emergence of the modern nation-state. In the 16th and 17th centuries, scholars Bodin and Hobbes developed a theoretical justification for the authority of monarchical sovereignty based on the myth of the divine right of kings supported in practice by the sovereigns' monopoly over coercion. These ideas cost Charles I his head. Early theorists stopped short of vesting the sovereign with absolutist powers. In *The Law of War and Peace*, the Dutch jurist Grotius focused on the problem of a world for multiple sovereigns. Sovereigns needed to find ways of communicating with each other and correspondingly tempering claims to absolute powers. This required international law understandings based on reason, morality and ethical clarity. His idea of subordinating sovereignty to a rule of reason and morality was a powerful and enduring insight, which still has important traction in international law.

Theory was translated into practice in Europe by the Treaty of Westphalia in 1648, which was founded on the premise of the nation-state as a political, territorial unit. Originally applied to strong monarchies such as England, France, Scandinavia and Spain, the treaty put into juridical form the idea of sovereignty based on the sovereigns' control over territory and populations, not on their form of government or the manner in which that control was achieved. Sovereignty arose from the rights of the monarch, rather than those of its people. Later, it was applied as a legitimizing principle for nationalist movements in Italy and Germany in the 19th century, for countries arising from the dissolution of empires in Eastern Europe after World War I, and for the independence movements which marked the end of colonialism after World War II.

The current international legal system was founded at a time when the concept of national sovereignty was conceived as an essential basis for affirming the right of peoples everywhere to self-determination and freedom from foreign aggression or imperialism. It was a rallying principle on which participating nations could concur. It is noteworthy that of the 80 nation-states that constituted the international community in 1950, only 20 could be classified as democracies. Little wonder that the representative government was not adopted by the UN founders as an essential criterion for sovereignty. In practice, the founders of UN system accorded inordinate power and privilege to the victors in World War II based on their dominant military and political power at that time, rather than on principles of democracy, representative government or universal justice. This temporary expedient forms the basis for continued claims by the five permanent members of the UN Security Council and other countries, which refuse to recognize a higher principle of justice and morality than national sovereignty.

Today, international law and international relations remain largely based on the primacy of the territorially-organized sovereign nation-state. The sovereign state claims exclusive primacy and control over people and spaces within its own defined juridical sphere and an unqualified monopoly over national security. Its claim of near exclusive powers over national security rests on the idea that the state cannot be subject to a compact which may compromise its survivability. This claim of sovereign competence is applied to limit international obligation under the rule of law.

Viewed in an evolutionary perspective, it becomes evident that the concept of sovereignty was derived from prevailing conditions and based on the self-interest of consenting parties,

rather than on any peremptory principles of justice and morality. It is but natural that nation-states insisted on their own absolute authority and rights at a time when neither the individual citizen nor the global community was in a position to express or demand equal or appropriate recognition of authority over interests transcending the sovereign nation-state. In effect, the system was heavily skewed in favor of the national governments which conceived it, including many rulers who could make no legitimate claim to representing the will and aspirations of their own citizens.

The inherent limitation in the legitimacy of this principle became evident at the very founding of the UN system, when the principle of universal human rights was introduced into the UN Charter as a counter-weight to the absolute rights of nation-states. The UN Charter stresses that its authoritative character is rooted in the people of the world community. It sought to establish the idea that sovereign states are subject to the authority of the people of the world whose will represents the foundation for international law. Since then the global community has continued to evolve, but legal principle is still held ransom to the perceived vital interests of national governments. Recent developments pose new and further challenges to the traditional notion of sovereignty on multiple fronts.

This paper examines numerous factors which necessitate a reconceptualization of sovereignty in the light of humanity's evolutionary advance. Drawing upon significant earlier precedents and recent developments, it is intended to challenge the notion of sovereignty resting exclusively within the limits of a territorially-organized state. It argues for a wider, inclusive concept of sovereignty that accords full recognition to the rights of individual citizens and the rights of the human community as a whole.

2. Sovereignty and Nuclear Weapons

The question of nuclear weapons presents in stark form the limits of sovereignty as understood in the context of a broader, global eco-socio process. The central threat posed by nuclear and thermo-nuclear weapons is their potential for the partial or complete elimination of human civilization and planetary-scale destruction of the earth's biosphere. In short, the consequences of the threat of use or use of nuclear weapons transcend the interests of any nation-state and encompass the entire global community.

Although a small number of nation-states monopolize and deploy nuclear arsenals, those arsenals carry consequences extending far beyond the reach of the sovereign authority of the state. The conceptual foundations of modern international law limit the principle of sovereignty to exclusive jurisdiction over matters that are clearly within its compass of domestic competence (UN Charter, Article 2.7). Matters that are not exclusively within the domestic jurisdiction of a sovereign state are matters of "international concern." Limits to sovereignty arise from the fact that some matters which involve sovereign state powers and competences also affect the larger global community of states, as well as the global society of individual human beings in those states. Nuclear developments, deployments, threats and possible uses are clearly matters which impact international community of sovereign states and peoples.

A state's claim to be insulated from international authority is based on the fact that it has nuclear weapon systems under its exclusive control. On the basis of its territorial sovereignty, it claims immunity from international efforts to exercise control over such weapons systems.

This notion is, in effect, founded on the principle that force, control, and naked power trump the moral force and compulsion of global authority and the welfare of humanity.

3. Evolution of Sovereignty

Recent developments pose serious challenges to the traditional notion of sovereignty and a compelling case for reappraising the foundations on which prevailing international law is based.

- ***End of Colonialism and Imperialism:*** The right of all peoples to self-determination constituted the legal basis for the dissolution of colonial empires after World War II. Having suffered from centuries of external oppression and exploitation, new nations were necessarily most sensitive to protecting their claims to sovereignty as a counter to outside interference. These claims derived considerable legitimacy from the democratic form of self-government adopted by India in 1947. However, subsequent experience in many countries led to the formation of national governments based on arbitrary rule by a military elite or dominant majority, undermining the claim that these governments truly represent and act for the benefit of their own people. The apartheid regime formed in South Africa when it left the Commonwealth and became a republic in 1961 was only an extreme form of a prevalent practice. The intervention of the international community in Yugoslavia in the early 1990s was predicated on the premise that national governments were not entitled to suppress the national aspirations of significant minorities. Today human rights violations and genocide by national governments are widely recognized as taking precedent over national claims to sovereignty.
- ***Democratic Revolution:*** Although historically the notion of sovereignty was delinked from the type of government, the democratic revolution that has swept the world during the last half century poses conditions for the legitimacy of national governments. Between 1950 and 1970, the number of democracies doubled. During the decade of the 1990s, the number further increased by 60%. Today, 117 of the world's 195 countries are classified as democracies. It is now increasingly recognized that the claim of national governments to represent and speak on behalf of their own people derives from the free acceptance of that government by the people through some form of democratic mechanisms of governance.
- ***Rise of International Humanitarian Law:*** Violation of the human rights of their own citizens is now recognized as a legitimate basis for the international community to intervene in and even replace the controlling authority of a nation-state. The recent intervention of the international community in Libya and Syria exemplifies an underlying change in principle.
- ***Terrorism:*** The US invasion of Afghanistan in 2001 was based on the principle that national governments which provide refuge to populations that threaten other states or the international community are themselves not entitled to claims of sovereign legitimacy. This premise clearly limits the sovereignty of nation-states, even in instances when national governments do not actively participate in acts of aggression. The recent calls for classification of Pakistan as a rogue state for its active support to terrorism in India and Afghanistan are based on this premise. The rise of international terrorism is

compelling nation-states to adopt common standards of compliance as a requirement for participation in the international community, as evidenced by the near universal standards for airport security and the recent efforts to impose severe restrictions on tax evasion and money-laundering through the international banking system.

“Many advanced Western governments may be more accurately described as plutocracies than democracies, since inordinate power is wielded by a significant elite who control most of the nation’s wealth and dominate both its political and financial institutions.”

- **Plutocracy:** Democratic forms of government are the strongest present basis for the justification of national sovereignty derived from the will of the people. Yet even on the criterion that the governments represent the will of their people, few modern democratic nation-states actually meet objective standards of compliance. Many advanced Western governments may be more accurately described as plutocracies than democracies, since inordinate power is wielded by a significant elite who control most of the nation’s wealth and dominate both its political and financial institutions. The incestuous relationships and active collusion between the government and the wealthy have been exposed with unprecedented clarity during the recent international financial crisis. A similar situation exists in most developing countries, where the power of the wealthy and the corruption of the political and administrative class distort national policy and the application of justice for the benefit of the few. According to one recent measure, today there are only 23 real democracies in the world, of which only 9 may be considered fully democratic nations.* Unless and until objective standards for demonstrating truly democratic principles of governance are established and applied, the sovereign claims even of democratic states will be suspect.
- **Rise of Multinational Corporations:** The past few decades have witnessed the rapid growth of multinational corporations whose ownership, asset base and operating territory literally span the globe. Some of these MNCs control annual revenues and budgets larger than those of many nation-states. Juxtaposing the interests of one nation against the other, they are often in a position to compel states to compromise the interests of their own people, e.g. as evidenced by the ruinous impact of global free trade on the people in many developing nations and the rising levels of unemployment in OECD countries due to massive relocation of production capacity overseas. MNCs represent a de facto challenge to national sovereignty. The pressure of international banks for deregulation of the financial industry is the most recent and dramatic instance, compelling nation-states to forge higher levels of international cooperation.
- **Rising awareness of Global Environment:** One of the most powerful factors undermining notions of national sovereignty has been an increasing awareness of the impact of human activity on the earth’s environment and the absolute necessity of global cooperation to address environmental threats. Pollution of shared river resources in the 1960s, acid rain in the 1970s, and the nuclear fall-out from Chernobyl in the 1980s were earlier

* Only 9 countries scored 9 or higher on the 10 point scale as reported by the Economist Intelligence Unit in *Democracy index 2011*. See http://www.sida.se/Global/About%20Sida/S%C3%A5%20arbetar%20vi/EIU_Democracy_Index_Dec2011.pdf

expressions of this growing awareness at the regional level. Concern over the rapid disappearance of the ozone layer of the atmosphere 20 years ago resulted in concerted international action to eliminate whole classes of chemicals. The rise of global concern over climate change during the past decade has globalized the issue, since actions by nations anywhere have environmental impact on other nations everywhere.

- **Overexploitation of Global Commons:** Side by side with rising concern over climate change has been the rising concern over the principles of justice by which the world's limited resources are shared and allocated. The Law of the Sea Convention which came into force in 1994 is based on the premise that the rights of nation-states are subject to international consensus. Treaties regarding the exploitation of Antarctica and prohibition of weaponization of outer space are other instances.
- **Internet:** The modern revolution in communications technologies now provides civil society actors with the capacity to communicate and organize as never before. The emergence of the Internet as the first truly global social organization is an event of unparalleled magnitude, which is already revolutionizing human relationships globally, but whose full significance and impact will unfold in the coming decades. The impact of Wikileaks, the Arab Spring, and the Occupy Wall Street Movement is only a tiny fringe expression of an underlying alteration in the global lines of power. The international financial crisis, which was itself based on the emergence of the internet as a global communication system, more accurately reflects the magnitude of the power the new social organization will wield in future.

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4. Rise of the Global Third Estate

Apart from these general developments, there are others which more directly and specifically apply to the legality of nuclear weapons. The recent development of transnational civil society represents one of the most significant factors impacting on the notion of national sovereignty. Until recently, the people of the world had no direct means, other than through and by the representation of national governments, to express and exercise their sovereign rights. The emergence of international civil society provides an essential foundation for the development of a more representative international system. For the first time in history, contemporary civil society now encompasses all levels of social organization from the local and national to the global level. A plethora of institutions both outside and inside the political sphere are now engaged in contributing ideas to the culture of global civil society and exercising influence over the actions of government. Together, they very loosely define a new 'third estate' representing global civil society.

The Global People's Social Forum is an important example of the growing influence of this new global civil society. This non-partisan, non-governmental forum meets annually to

examine ways to secure a better future for humanity by championing a form of globalization that is counter-hegemonic and democratic. It stakes a claim to a global commons that affirms the most important values favoring the primacy of human well-being and dignity. The forum also represents a somewhat informal but serious global political drive to carve out a sphere of sovereignty that is global and rooted in people's expectations about security, well-being and dignity.

One of the most important consequences of the evolution of global civil society and the current state system has been the emergence of a new and beneficent diplomacy, sometimes called the 'new internationalism'. Central to this development has been the ability of global civil society to network with like-minded progressive states to forward an important component of the global agenda. For instance, global society played an important role in building support for establishment of the International Criminal Court and for the treaty outlawing personnel landmines. Global civil society also had a critical role in the agreement creating a global climate change treaty and continues to play an important role in this issue.

The food sovereignty movement targeting people's food security is another clear instance where global civil society is coalescing around an issue of importance to humanity as a whole, which cannot be adequately addressed at the national level. The movement focuses on the primacy of people's and communities' right to food and food production over trade concerns, their right to define land, fishing and agricultural policies economically, socially, ecologically and culturally appropriate to their unique circumstances. The food sovereignty movement seeks to secure the idea that food is a basic human right, to end the globalization of hunger, and to promote a more democratic and people's participatory global perspective.

5. People's Sovereignty in a Regional Context

The formation of the 27 nation European Union and the 17 nation Economic and Monetary Union (Eurozone) is only the most recent and dramatic instance in which national sovereignty is giving way to larger regional alliances that effectively undermine the traditional boundaries of national sovereignty. The current drama playing out in Europe regarding the financial failure of members of the Eurozone highlights the extent to which traditional notions of sovereignty have already given way. What is often lost sight of is the fact that the formation of the EU and the Eurozone was itself an effort by these nation-states to maintain and augment their competitiveness in the context of the increasing globalization of power. Civil society played a particularly important role in the founding of the European Parliament as an assembly popularly elected by citizens of the region.

These and many other initiatives, especially in the area of globalizing human rights, compel formulation of a new conception of sovereignty as a complement to prevailing notions based almost exclusively on nation-states. They are contemporary expressions of the interests of "the people" outside the boundaries of conventional sovereignty. These developments represent an important challenge to the omnipotence of sovereignty-dominated political and legal processes over important issues that affect the fundamental interests of people worldwide. The present conception fails because of its exclusivity and arbitrary attribution of legitimacy to national governments. The emerging conception must necessarily be far more inclusive and founded on truly representative democratic principles.

6. The Common Heritage of Mankind Doctrine

The doctrine of the common heritage of mankind asserts that there is a global doctrine for the protection of people's rights on a universal basis. First developed by Grotius as a foundation for modern international law of the oceans, whose views were a response to the Portuguese claim of a *mare clausum*, meaning that wherever the Portuguese flag was planted, the ocean was to be for the exclusive use of the Portuguese. Grotius challenged this with his doctrine of the freedom of the oceans based on the idea that the oceans were a common heritage of mankind.

The concept of heritage, which includes both natural and cultural creations, is reflected in the UN Law of the Sea Treaty. The common heritage of mankind has also been extended to the spatial reach of Antarctica as well as to outer space. Modern international law includes the moon and other celestial bodies that cannot be subject to appropriation by individual state sovereigns. The UN Outer Space Treaty specifically prohibits nuclear weapons being deployed in outer space. This provision also applies to the Moon Treaty. This doctrine is directly relevant to the elimination of nuclear weapons. Specifically, it prohibits the use of space for strategic nuclear-war-making purposes in the name of humanity.

There are other applications of the common heritage principle that touch on the right to life and future existence. For example, the UNESCO Declaration on the Human Genome and Human Rights stipulates that the Genome is the biological factor that underlines the unity of humanity. It extends the value we place on life to the human rights dimension of the Genome itself. This supports the notion of a people's right to the integrity of the Genome and applies to sovereigns and corporate entities alike. If we protect the Genome as a common heritage idea, the logic seems inescapable that humanity's existence as such is also a valid contender for inclusion as a common heritage value.

Additionally, the UNESCO declaration on the responsibilities of present generations towards future generations also contains provisions that are related to the common heritage of mankind idea. For example, Article 4 of the Declaration stipulates that present generations have the responsibility to bequeath to future generations an Earth which will not one day be irreversibly damaged by human activity, to use natural resources reasonably, to ensure that life is not prejudiced by harmful modifications of the ecosystems, and to ensure that scientific and technological progress in all fields does not harm life on Earth. Article 9 mandates that present generations ensure that both they and future generations learn to live together in peace, security, respect for international law, human rights and fundamental freedoms. To that end, they should avoid exposing future generations to the harmful consequences of armed conflicts, as well as all other forms of aggression and use of weapons, contrary to humanitarian principles.

People's global expectations about inclusive responsibility for the survival of present and future generations rooted in the doctrine of the common heritage of mankind must of necessity and logical coherence include the concern for threats to the extinction of the existence of humanity. These threats are inherent in the development, deployment, and possible uses of nuclear weapons. These expectations strengthen the claim of a global sovereignty rooted in the authority of all the people comprising mankind. The implications of the common heritage doctrine have also influenced the Global Eco-Village Network. Emergent ideas of a common

heritage inspire evolution of planetary democracy as well as the principles informing the Earth Charter civil society initiative.

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7. Global Commons Spaces

The emerging doctrine of the global commons originated in spaces within sovereign states preserved by sovereigns for the benefit of the people as a commons. From this idea, progressive scholars have sought to develop a strong body of scholarship stressing the importance of a common heritage which may be applied to designate spaces outside the reach of sovereign authority, including the earth’s atmosphere, oceans, tropical forests, biodiversity and Antarctica.

The global commons idea implicates spaces within sovereign states that are crucial to the well-being of humanity as a whole. This would include, for example, the importance of the Amazonian rain forests for world climate. The global commons idea focuses on interests that require cooperation or limitations on absolutist ideas of sovereignty. It also requires fresh thinking on the regimes needed to manage such spaces on behalf of the commons.

The global commons idea has important strategic implications for the empowerment of people’s interest on a global basis. It represents yet another initiative to establish the legitimacy of the people’s interest in a global commons, with the intention to empower the people in the commons and limit the power of sovereignty of the state. The global commons provides support for the idea that a threat to the earth/space community as a whole is a threat to the commons of humanity as a whole and a threat to the authority of sovereignty rooted in mankind as a whole. In this sense, the global commons thinking supports the principle of universal nuclear abolition.

8. People’s Sovereignty and Nuclear Threats of Global Extermination

It has long been declared that the use of nuclear and thermo-nuclear weapons far exceeds the scope of war as conventionally understood. Indeed, nuclear weapons have the capacity for the destruction of all of humanity and civilization. There is no system of law that can regulate the irrationality of this possibility. In 1962, the General Assembly declared that the use of nuclear weapons cannot be contained in armed conflict between rival contestants. All of mankind would be affected by their use. It concluded that using such weapons is contrary to the elementary laws of humanity and constitutes a crime against mankind and civilization. In 1972, by resolution, the General Assembly stipulated that there was a clear “desire of all peoples to eliminate war and above all, to prevent a nuclear disaster.” It called for

“The legitimacy of people’s sovereignty with regard to nuclear weapons can be affirmed by instituting a global referendum calling for the expeditious elimination of all nuclear weapon systems on earth.”

“a permanent provision on the use of nuclear weapons.” In 1980, the General Assembly stated by resolution that it was alarmed by the threat to the survival of mankind and the life sustaining system posed by nuclear weapons and their use, inherent in the concepts of deterrence. It again stated that the use of nuclear weapons was a crime against humanity.

In all of these references, the General Assembly, the most popular representative of the United Nations, has consistently referred to humanity as a whole in terms that are reconcilable with the sovereignty, common heritage, global commons ideas developed earlier. It would, therefore, appear that even the General Assembly of the UN roots the idea of abolishing the nuclear weapons in the authority of

the people comprising the earth/space community. This is, at least, a tacit acceptance of the idea of residual sovereignty rooted in people’s expectations of the entire world community.

In the Delhi Declaration in 1985, issued in the names of Rajiv Gandhi, Raul Alfonsin, Miguel de la Madrid, Julius Nyerere, Olof Palme and Andreas Papandreou, we find the voice of “we the people” in the background. These leaders stated that nuclear disaster can be prevented “if our voices are joined in a universal demand in defense of our right to live,” and that the future “of all peoples is at stake.” They urged “people, parliaments and governments... to lend forceful support” to their appeal for the elimination of nuclear weapons.

9. Conclusion

Clearly, there is a powerful emergent dynamic in practice and theory that insists upon the relevance, indeed, the vital importance of the idea of a global people’s sovereignty over spaces and issues that threaten the survivability and extinction of humanity. Until now the concept of global sovereignty has been undermined by the difficulty in evolving mechanisms to determine the will of humanity. Recent advances in communications technology substantially reduce this difficulty. Indeed, it is now feasible to poll global public opinion electronically. The legitimacy of people’s sovereignty with regard to nuclear weapons can be affirmed by instituting a global referendum calling for the expeditious elimination of all nuclear weapon systems on earth. Such a referendum could make unambiguous the demand of the people’s sovereign authority of the earth for an end to war and an end to the prospect of a nuclear version of it. The people’s sovereignty could affirm the illegality of both possession and use of nuclear weapons under any circumstances. It can call upon the International Court of Justice to review and revise its advisory opinion of 1995. It can also call for the mobilization of all available strategies to speed the advance of nuclear disarmament, including prohibition of the arms race in space or on earth and the testing of nuclear weapons. A global referendum in the name of the sovereignty of all peoples could affirm a universal demand of the right to live in a world free from the threat of nuclear weapons and the further demand that everything be done to avoid a nuclear disaster.

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World Peace Through Law: Rethinking an Old Theory

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Abstract

The author sets about re-thinking the old concept of “World Peace Through Law” (WPTL), meaning replacing the use of international force with the global rule of law. He traces the history of the WPTL concept back to the British legal philosopher Jeremy Bentham, whose 1789 ‘Plan for an Universal and Perpetual Peace’ proposed “a plan of general and permanent pacification for all Europe,” with troop reductions (especially in naval forces) and “a Common Court of Judicature” to resolve differences between nations. The author’s 21st century version of WPTL bears an uncanny resemblance to Bentham’s original proposal, calling for: 1) arms reductions (including abolition of nuclear weapons); 2) a four-stage comprehensive system of compulsory alternative dispute resolution (compulsory negotiation, mediation, arbitration, and adjudication); and 3) various enforcement mechanisms, including an international peace force.

The author argues that now is the time for adoption of what is a mainstream middle-of-the-road proposition (previously adopted by four past American presidents, including Theodore Roosevelt, William Howard Taft, Dwight David Eisenhower, and John F. Kennedy) that is neither “too little” (our current strategy of “collective insecurity”) nor “too much” (world government or world federalism). Instead, WPTL calls for only 1) arms reductions, not general and complete disarmament; 2) compulsory international alternative dispute resolution systems, not a global legislature; and 3) means of effective enforcement (including an international police force), not pacifism.

The whole concept of WPTL has been sadly neglected over the past half century. It is time to take a new look at the concept in this, the nuclear age.

From time immemorial, humanity has yearned for peace, but gone to war. Now, with the advent of nuclear weapons, it seems to most thoughtful people that war, at least major war, is no longer an option. Thus, the question becomes how to avoid it. One possible answer is “world peace through law,” somehow substituting the rule of law for the use of force to resolve international conflict. Many versions of this basic idea, once quite popular but now nearly forgotten, have been advanced over the years. One of the earliest proponents of the concept was British legal philosopher Jeremy Bentham, who in his 1789 *Plan for an Universal and Perpetual Peace*, proposed “a plan of general and permanent pacification for all Europe,” with troop reductions, especially in naval forces, and “a Common Court of Judicature” to resolve differences between nations, albeit without coercive powers.¹ Undoubtedly,

the “strongest” version of “world peace through law” is that of the world federalists, whose basic argument is that there are only two ways to resolve true conflict (meaning conflict that cannot be mediated) at the international level: (1) by war (no longer a good idea, since it could entail the extinction of at least our species), and (2) by law. Therefore, they say, choose law. And by “law,” world federalists mean law that is the only kind worth having, enforceable law, enforceable upon individuals, i.e., “world law”, created by a global legislature and enforced by global courts and global police, unlike the inadequate currently-existing international “law” and the weak system of UN-based “collective insecurity” that we now have.²

This article proceeds on the assumption that while the above syllogistic argument does convey an important truth, there is another possibility, that the “law” in the “world peace through law” formula need not be that of a global legislature, that there are other ways of securing world peace through law, both in the short term and in the long run.

If one takes a long view of our history as a species and as a gradually maturing international society, it becomes apparent that we are already on our way, while scarcely realizing it, to “world peace through law” through the one-step-at-a-time brick-by-brick, law-by-law, norm-by-norm accretion of a body of mere “international law” which is gradually becoming a body of genuine “world law” right before our unsuspecting eyes. And this world-law-in-the-making has been happening even during the recent administration of a U.S. government more scornful of international law and international institutions than any in U.S. history.

What in the world am I talking about? Well, first, I am talking about a vast body of international law, built up primarily over the past several centuries.* This is not to say that there were not significant developments in international law prior to this.³ One can start by looking at a mere short-list of the highlights of international law and institutions over the years, to remind ourselves of the progress that has been made, despite the serious shortcomings that remain.

MILESTONES IN INTERNATIONAL LAW

Hugo Grotius’ <i>On the Law of War and Peace</i> (attempts to describe what he insists on calling “a common law of nations,” albeit one that he freely admits is often not observed in the breach)	1625
Peace of Westphalia (modern system of sovereign European states; early attempt at international arbitration)	1648
Final Act of Congress of Vienna (principles for cooperative use of rivers etc.)	1815
Paris Declaration on Maritime Law (regulating maritime warfare)	1856
International Red Cross	1864
International Telecommunications Union	1865
<i>Alabama Claims</i> Arbitration (successful conclusion of U.S. claim against UK for permitting construction of warships for Confederacy during the Civil War)	1872
Universal Postal Union	1875

* Jeremy Bentham was the first to coin the term “international law.” M.W. Janis, “Jeremy Bentham and the Fashioning of ‘International Law,’” *American Journal of International Law*, 78, no. 2 (1984): 405-418.

Int'l Bureau of Weights & Measures & Int'l Meteorological Org.	1878
Int'l Copyright Union	1886
First Hague Convention (against poison gas, dum dum bullets; treatment of war prisoners)	1899
Permanent Court of Arbitration	1900
Second Hague Convention (outlaws war to collect debt; accepts "principle" of compulsory arbitration, but without operative machinery)	1907
International Labor Organization	1919
International Civil Aviation Organization	1919
League of Nations [but not the U.S.]	1920
World Court [later, Int'l Court of Justice (1945)]	1921
Kellogg-Briand Pact (normative principle outlawing war, but no enforcement mechanism)	1928
Geneva Conventions on Prisoners of War	1929
Bank for International Settlements	1930
UNESCO	1942
World Bank	1944
IMF	1944
United Nations	1945
FAO (food & agriculture)	1945
Nuremberg War Crimes Trials begin	1945
UNICEF	1946
GATT (General Agreement on Tariffs & Trade)	1947
Universal Declaration of Human Rights	1948
World Health Organization	1948
Geneva Conventions on War Crimes	1949
European Coal & Steel Community	1951
European Convention for Protection of Human Rights	1953
European Economic Community (EEC, Treaty of Rome)	1957
IAEA (Int'l Atomic Energy Agency)	1957
Antarctic Treaty	1959
OECD (Organization for Economic Cooperation & Development)	1961
McCloy-Zorin Agreement (draft plan for nuclear disarmament)	1961
Limited Test Ban Treaty	1963
World Food Program	1963
UNCTAD (integrating developing countries into world economy)	1964
UNDP (development)	1965

Outer Space Treaty	1967
Treaty of Tlatelolco (first of several nuclear free zone treaties)	1967
Nuclear Non-Proliferation Treaty	1968
Vienna Convention on the Law of Treaties	1969
Seabed Arms Control Treaty	1971
Biological Weapons Convention	1972
ABM Treaty [U.S. withdrew in 2001]	1972
SALT I Interim Agreement	1972
UNEP (environment)	1972
Threshold Test Ban Treaty	1974
Int'l Covenant on Economic, Social & Cultural Rights [but not U.S.]	1977
Convention on Elimination of Discrimination Against Women [id.]	1979
Law of the Sea Convention [id; entered into force, 1994]	1982
Montreal Protocol (regarding ozone layer)	1987
Intermediate-Range Nuclear Forces Treaty	1987
Convention on the Rights of the Child [only U.S. & Somalia have not ratified the convention]	1989
UN Framework Convention on Climate Change	1992
Chemical Weapons Convention	1993
Int'l Criminal Tribunal for the Former Yugoslavia	1993
WTO (more court-like sanctions than GATT)	1994
Comprehensive Test Ban Treaty [not approved by U.S. Senate]	1996
Ottawa Landmines Treaty [but not U.S.; entered into force, 1999]	1997
Kyoto Protocol [but not U.S.; entered into force, 2005]	1997
Int'l Criminal Court [but not U.S.; entered into force, 2002]	1998
UN General Assembly "Responsibility to Protect" Resolutions	2006
Convention on Cluster Munitions [but not U.S.; entered into force, 2010]	2008

What the above partial list makes clear is that, starting from the smallest measures, up through the sweeping changes of the post-WWII years, a growing body of global law of considerable depth and breadth has gradually been accumulated.^{†, 4} And while current international law and institutions are weak and ineffective (especially in the area of global security), they have grown stronger, despite the desperate opposition and scorn of the real-politikers.^{†, 5} To take one example in the area of international trade, initially, the GATT (1947) operated only upon a consensus decision-making basis. Now, however, as of 1994 the new WTO has precisely the reverse rule: sanctions are now automatic upon a finding by the WTO

* While disavowing any "teleological view," Judith L. Goldstein, Miles Kahler, Robert O. Keohane, & Anne-Marie Slaughter find that "[i]n many issue-areas, the world is witnessing a move to law."

† Cf. Percy E. Corbett, *The Growth of World Law*, at 50 (1971) (the international law system "leaves off precisely at the point where law is most necessary, namely where the urge to unrestrained action is strongest").

tribunal in the absence of a consensus blocking them.⁶ Similarly, the Law of the Sea Treaty (1982) replaces conflicting power-based claims with a comprehensive rule-based framework to regulate all ocean space (70% of the globe), its uses and resources, from navigation rights to definition of territorial waters and related boundaries to fishing limits and other ocean resources regulation, all enforced via compulsory dispute settlement procedures.⁷ Although the Law of the Sea Convention was the result of a number of UN-sponsored conferences, the UN has no direct role in its operation, so that it is free of the P-5 veto in the Security Council. This aspect of the Convention is particularly interesting. This “Law of the Sea approach”—a functionalist approach keyed to a particular problem and neatly avoiding the constraints of the P-5 veto—could be utilized in other problem areas.⁸ These two examples of “stronger” international law are emblematic of the kinds of evolutionary changes that have taken place and will only continue to occur over time. And gradually, as the edifice of international law becomes more and more impressive and gains greater acceptance, philosophical debates as to the nature of international law as “law” will become increasingly moot, as we move ever closer to eventually creating a comprehensive system of international courts empowered to provide the rule of law at the global level.*

This ongoing process, which is gradually turning weak “international law” into enforceable “world law,” is very much like the growth of the early common law. In twelfth and thirteenth-century Britain, the common law crimes and torts and other civil claims grew up one by one, gradually converting a hodgepodge of primitive local and feudal folk laws reliant upon self-help remedies (the blood feud and its composition) into a systematic legal structure of pleas of the crown and causes of action enforceable in the central royal courts.[†] ⁹ Similarly, various legal institutions, such as trial by jury and an independent parliament, only gradually came into existence, after much hard work and acts of individual courage and even occasional battles, transforming what were arms of royal power and control into democratic individual-freedom-enhancing legal institutions.[‡] ¹⁰ A similar evolutionary process is plainly at work in the field of international law.

It is true, of course, that many of the more recent advances (e.g., the ICC and the Law of the Sea Treaty) have not yet been ratified by the United States.[§] ¹¹ This, despite the fact that many in the U.S., such as Ambassador Elliot Richardson, chief U.S. negotiator at the Law of the Sea Conference, and Bill Pace, Convenor of the NGO Coalition for an International Criminal Court, played a key role in their creation. But this will change. America will eventually come to its senses and recover its historic courage, reject the craven politics of fear, and rejoin the world community. America may also come to realize that the cost of being World Cop is something it can no longer afford, with its current financial difficulties likely hastening this realization.

* Trial of German Major War Criminals (Goering et al), International Military Tribunal (Nuremberg), Judgment and Sentence (Sept. 30 & Oct. 1, 1946) (Cmd 6964, HMSO, London), at 40: “The law of war is to be found not only in treaties, but in the customs and practices of States which gradually obtained universal recognition, and from general principles of justice applied by jurists...” Also cf. Hans Kelsen, *Law and Peace in International Relations: The Oliver Wendell Holmes Lectures*, 1940-1941, at 145, 149-51 (1942) (arguing that the natural evolution of law is from courts to legislatures).

† Wayne R. LaFave & Austin W. Scott, Jr., *Criminal Law*, at 619 n.3 (1972) (common law crime of larceny by bailee finally recognized in 1473).

‡ Ranney, *Heritage* (also “Milestones in Legal History” chart appendix at 3-5 nn. 28, 31 & 39) (jury develops from royal inquest of local knights of the shire into independent criminal trial jury by 1220; subsequent development of right to freedom of deliberation in *Bushel’s Case* in 1670; parliament grows out of body mainly “judicial” in nature or merely advisory to king into independent legislature ca. 1258).

§ There is an excellent argument that these and similar treaties should have been adopted via the congressional-executive agreement process rather than via the treaty clause. The former method is more democratic than the latter since it involves both houses, the two-thirds requirement being based upon now-discredited concerns of the slaveholding states.

As difficult as it is to predict the future, if one were forced to make reasonable projections from the current trajectory of world-law-in-the-making to likely future world law and legal institutions, one can project the following general list (aside from the treaties already in existence but not yet signed by the United States):

“Imagine what it might mean to the world, and in particular, to the peace issue, if just one right — the right to full gender equity — were granted.”

- 1) Global Economic Regulations: This appears to be the next big thing on the horizon, if only because the latest financial crisis has pointed out to many businessmen and policymakers that something aside from the occasional chat amongst the G-20 is called for in vast areas of global economic (and environmental) regulation.*¹² No opinion is ventured here as to how such important changes might be accomplished, except to note that a “Law of the Sea problem-by-problem approach” is one of many that could be utilized.¹³
- 2) Human Rights Enforcement: There is a sense, of course, in which world peace and justice would follow automatically from the enforcement of global human rights.† Nevertheless, it is perhaps worth separating this area out for special attention. Without attempting an exhaustive review of the full set of human rights or how they might best be implemented, just imagine what it might mean to the world, and in particular, to the peace issue, if just one right—the right to full gender equity—were granted. It is not idle speculation to suggest that this one measure could by itself go a long way toward bringing about world peace.¹⁴
- 3) Global Rule of Law: We need to complete the task, only just begun, of creating comprehensive global legal structures that substitute the rule of law for the rule of force at the international level. This will require, at a bare minimum, not only an expanded International Criminal Court and an International Court of Justice with compulsory jurisdiction, but also some kind of international equity tribunal to resolve controversies of any nature whatsoever.‡ Mikhail Gorbachev in 1987 proposed expansion of the ICJ’s compulsory jurisdiction, discussions taking place for several years amongst the P-5.¹⁵ Compulsory adjudication in the ICJ would be preceded by compulsory negotiation, compulsory mediation, and compulsory arbitration, thus establishing a four-stage comprehensive system of global alternative dispute resolution.§
- 4) Arms Reductions and a United Nations Peace Force: Proposals for some kind of an international police force have been around for quite some time, having in fact been endorsed by at least four former U.S. presidents (Theodore Roosevelt, William Howard Taft, Dwight David Eisenhower, and John F. Kennedy).¹⁶ But the Cold War and other dif-

*Global corporations “have the ability to ‘venue shop’ and play countries against one another to win better legal, regulatory, or tax treatment” [e.g., Halliburton moving corporate headquarters from Houston to Dubai] such that “on transnational issues there is a [regulatory] void”. Approximately, 56 tax/regulatory/secretary havens involving 2 million companies and \$12 trillion in assets result in annual tax loss estimated at \$255 billion; GAO report shows that by now 60% of large U.S. corporations pay no taxes; havens also hide risky debt instruments, facilitate corruption, and cause the deaths of over 250,000 children a year due to illegal capital flight and lost tax revenue.

† It could be argued that the logic of the “world peace through law” formula would dictate an immediate International Human Rights Court. But as Justice Holmes famously said, “the life of the law has not been logic.” More importantly, the way in which I use the “world peace through law” syllogism does not contemplate “litigating” our way to peace or human rights, at least not until there is a greater global consensus on fundamental values.

‡ With expanded coverage of crimes such as possession of nuclear weapons or components.

§ Spelled out in detail in forthcoming book by the author.

ferences amongst countries have prevented anything like it from coming into existence. With the imminent move to abolition of nuclear weapons,¹⁷ accompanied by reductions in conventional weapons and their restructuring toward “defensive-only” postures (such as fixed anti-tank emplacements, which can be used only defensively),¹⁸ we will be on our way to an infinitely safer world. If we can combine that with increasing reliance upon an international peace force, we can look forward to an eventual situation where a UN Peace Force (UNPF) is considered to be the only legitimate means of confronting international violence or threats of violence. As to how this might be effectuated, a UNPF could be instituted via a “Law of the Sea” approach, avoiding the veto problem in the UN Security Council, and without the need to create a global government. The tough issue would be when and how a UNPF could be committed. Not much thought has gone into that issue, and it is admittedly a difficult one. Nevertheless, just as the Law of the Sea Convention was negotiated over time, in that specific context, so too some kind of operational mechanism (left vague on purpose) controlling the UNPF could be negotiated over time, whether some kind of weighted-voting or qualified-majority or other device altogether.

While it is true that a UNPF could turn out to be less than perfect, and it might not be, at least initially, precisely the kind of institution that the peace community would thoroughly approve, in the real world there is little that is perfect and there are disadvantages to almost everything.* Further, the fact that a UNPF might at some point be co-opted as a good idea by neo-conservatives ought not be off-putting, for unless a few ideas of the peace movement are adopted by “the opposition,” they will never go anywhere.¹⁹

Gradually, then, as we gain greater experience with already-existing UN peace forces, increasing their capacity and competence, with concomitant decreases in individual-country militaries, we will arrive at a point where the normal expectation will be that a UNPF is the only proper means of dealing with international conflict. Simultaneously, the universal expectation and eventual well-settled norm will become that such conflict should be subjected to a comprehensive array of international legal dispute resolution mechanisms. When that happens, we will have arrived at a place where we have in fact substituted the rule of law for the use of force to resolve international conflict. If and when that day comes, we will have realized humanity’s long-time dream of world peace through law, regardless of whether legal scholars would call it true “world law”.

Although the above proposal does place considerable emphasis upon the role of global law and legal institutions in securing peace, there is no suggestion that the law by itself will somehow miraculously transform the world.

“Obviously, more than mere “legal change” is required. It will take fundamental social and political change. Law, after all, is merely public sentiment crystallized.”

*One can foresee the objection that a UNPF might look too much like an overgrown NATO. Cf. Christoph Marischka, “How Ban Ki-moon subjugated the UN to NATO,” *Informationsstelle Militarisierung* (June 1, 2009) (www.imi-online.de/2009.php3?id+1925) (largely unnoticed document of 23 September 2008 signaling cooperation between UN and NATO objected to by Transnational Foundation for Peace & Future Research). This is not the place for an extended discussion of what a good UNPF would look like (although obviously it would need to be able to respond timely to diverse challenges in appropriately diverse ways, with fully-equipped well-trained crème de la crème officers and troops with access to adequate logistics, intelligence and communications, operating under well-organized and well-coordinated command and control and a clear mandate). Also, the emphasis upon a UN peace “force” ought not imply a too-ready resort to force. Rather, this must be a “peace and reconciliation” force that makes full use of conflict resolution and other non-violent approaches (e.g., something like the existing Non-Violent Peace force should be either a part of a UNPF or available to it).

Obviously, more than mere “legal change” is required. It will take fundamental social and political change. It will take increased understanding amongst countries, facilitated by vastly increased exchange programs, twinned-universities, worldwide internet and interfaith exchanges, a sharing of the most precious children’s literature of all cultures, and an infinite variety of similar measures. Law, after all, is merely public sentiment crystallized.

There are those who would argue, in fact, that all we really need for a peaceful and just future world is the classic idea of a gradual but steady decline in militarism and military spending worldwide, as part of a generalized increase in understanding amongst countries. For just as we would no longer think of going to war with Canada and just as Great Britain and France would no longer think of going to war, so too we and Russia and others may arrive at a similar point of mutual understanding in our joint destinies.*²⁰ And this new outlook would be accompanied by the de facto resort to readily available legal dispute resolution systems. Thus, there might not be that much need for a UNPF or at least not a large one.

“It will take what it always takes — courageous and determined action by individuals in the face of strong opposition — to fight for our vision of a world without war.”

Of course, all these things inevitably play together. Progress on one front will facilitate progress on other fronts. Progress on human rights and economic development will facilitate the kinds of normative changes needed for significant arms reductions and a greater willingness to rely upon global legal institutions. Arms reductions will permit greater economic and human development and a blossoming of humanity’s creative capacity for good. Deeper arms reductions will likely depend upon progress on building alternative security systems and stronger international legal structures. Even though we will face the inevitable setbacks, when one takes the long view of human history, the trajectory we are on is apparent.

This does not mean, of course, that it will happen by itself. Rather, it will take what it always takes—courageous and determined action by individuals in the face of strong opposition—to fight for our vision of a world without war. There are many paths to peace, things that we can do, collectively and individually, to secure a safe and sustainable world. But after many millennia of human development, we now face a profoundly fundamental choice: between what we have been doing for ages—bleeding the private and public sectors white with exorbitant military spending while hoping to escape the time-honored tradition in which individual empires rise and fall—and a whole new paradigm of global security, a world without war and with social justice, bottomed upon the global rule of law.

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*As hard as it is right now to envision reconciliation with our current worst enemies, I believe that we will eventually see precisely that, especially as there is a decline in what may appropriately be called toxic religiosity, on all sides. This will be the culmination, worldwide, of the Age of Reason. Cf. Thomas Paine, *The Age of Reason: Being an Investigation of True and Fabulous Theology* (1794). Cf. also www.strategicforesight.com (working for an “inclusive world”).

Notes

1. Jeremy Bentham, *Plan for an Universal and Perpetual Peace* (London : Sweet and Maxwell, 1927), 12-27.
2. Joseph P. Baratta, *The Politics of World Federation* (Westport: Praeger, 2004) (excellent history of movement, tracing origins of idea back to at least Dante [ca. 1311], Henry IV of France [1610], William Penn [1693], Abbe de Saint-Pierre [1713], Rousseau [1761], Kant [1795], and early British and American federalists, through huge popular successes post-WWII to its near extinction in the McCarthy Era; appendix has annotated bibliography of 77 books); Christopher Hamer, *A Global Parliament: Principles Of World Federalism* (Oyster Bay: Oyster Bay Books, 1998); and Grenville Clark & Louis Sohn, *World Peace through World Law* (Cambridge: Harvard University Press, 1966). Also cf. Louis Lusky, "Four Problems in Lawmaking for Peace," *Political Science Quarterly* 80, no. 3 (1965): 341-356; and Inis Claude, *Swords into Plowshares: the Problems and Progress of International Organization* (New York: Random House, 1971).
3. Harold J. Berman, "The Law of International Commercial Transactions (Lex Mercatoria)," *Harvard International Law Review* 19, no. 1 (1978): 274-277 (tracing origins of law merchant from Sea Law of Rhodes, ca. 300 B.C.). But with the evolution of the modern nation-state in the early 1600s, see Sheri Berman, "From the Sun King to Karzai: Lessons for State Building in Afghanistan," *Foreign Affairs* 89, no.2 (Mar/Apr 2010): 2-9, we see the growth of international law.
4. Mary Ellen O'Connell, *The Power and Purpose of International Law: Insights From the Theory & Practice of Enforcement* (New York: Oxford University Press, 2008). Also compare Judith L. Goldstein, Miles Kahler, Robert O. Keohane, & Anne-Marie Slaughter, *Legalization and World Politics* (Cambridge: MIT Press, 2001). Philip Allott, "The Emerging Universal Legal System," *International Law Forum* 3, no.1 (2001): 12-17. See also Martti Koskenniemi, *The Gentle Civilizer: The Rise and Fall of International Law 1870-1960* (New York: Cambridge University Press, 2002). Julius Stone, *Of Law and Nations: Between Power Politics and Human Hopes* (N.Y: W.S. Hein, 1974) and Eric Posner, *The Perils of Global Legalism* (Chicago: University of Chicago Press, 2009).
5. Compare Nicole Deller, Arjun Makhijani & John Burroughs, eds., *Rule of Power or Rule of Law? An Assessment of U.S. Policies and Actions Regarding Security-Related Treaties* (New York: Apex Press, 2003); Oona Hathaway, "Why We Need International Law: Undoing the Bush Administration's Damage," *The Nation*, November 19, 2007 (remarkable internal documents show deep aversion to international law); and Thomas M. Franck, "The Power of Legitimacy and the Legitimacy of Power: International Law in an Age of Power Disequilibrium," *American Journal of International Law* 100, no. 1 (2006): 88-106. Robert J. Delahunty and John C. Yoo, "Peace Through Law? The Failure of a Noble Experiment," *Michigan Law Review* 106 (2008): 923-939. Cf. also Corbett, supra, at 51 (those scornful of stumbling attempts to create world law "display a lack of perspective no less real than that of the hurried idealists whose visions they deprecate.").
6. Richard H. Steinberg, "Judicial Lawmaking at the WTO: Discursive, Constitutional, and Political Constraints," *American Journal of International Law* 98, no. 2 (2004): 247-275 and Bernhard Zangl, "Judicialization Matters! A Comparison of Dispute Settlement Under GATT and the WTO," *International Studies Quarterly* 52 (2008): 825-854.
7. Louis B. Sohn, Kristen G. Juras, John E. Noyes & Erik Franckx, *Law of the Sea in a Nutshell* (Minnesota: West, 2010) and www.un.org/Depts/los.
8. Center for War/Peace Studies, "What Elliot Richardson Thinks," *Global Report* no. 4 (1978). Elliot Richardson is interviewed by Richard Hudson, and states: "To me the Law of the Sea Conference offers the hope of a major contribution in the building of a global order. It may well be the single most important potential to build it."
9. Harold Berman, *Law and Revolution: The Formation of the Western Legal Tradition* (Cambridge: Harvard University Press, 1983) and James T. Ranney, *Heritage of Our Freedoms: Milestones in Legal History* 16 (1987): 19-20 (slideshow transcript and coursebook) (on file with author).
10. Theodore F. Plucknett, *A Concise History of the Common Law* (Boston: Little, Brown, 1956), 118-134 and Henry G. Richardson & George O. Sayles, *The English Parliament in the Middle Ages* (Philadelphia: University of Pennsylvania Press, 1981).
11. Oona Hathaway, "Treaties' End: the Past, Present, and Future of International Lawmaking in the United States," *Yale Law Journal* 117, no.8 (2008): 1236-1372.
12. Joseph E. Stiglitz, "A Real Cure for the Global Economic Crackup," *The Nation*, July 13, 2009; David Kennedy, "The Mystery of Global Governance," in Jeffrey L. Dunoff & Joel P. Trachtman, *Ruling the World? Constitutionalism, International Law, and Global Governance* (Cambridge: Cambridge University Press, 2009); David Rothkopf, *Power, Inc: The Epic Rivalry Between Big Business and Government—and the Reckoning That Lies Ahead* (New York: Farrar, Straus and Giroux, 2012); Ronen Palan, Richard Murphy & Christian Chavagneux, *Tax Havens: How Globalization Really Works* (Ithaca: Cornell University Press, 2010); James Gustave Speth & Peter M. Haas, *Global Environmental Governance* (Washington: Island Press, 2006); and Pierre de Senarclens & Ali Kazancigil, *Regulating Globalization: Critical Approaches to Global Governance* (New York: United Nations University Press, 2007).
13. For a good example of the problem-by-problem type of analysis required, see Jeffrey Dunoff, "Institutional Misfits: The GATT, the ICJ & Trade-Environment Disputes," *Michigan Journal of International Law* 15, no. 1042 (1994): 2-83.
14. See Paul Gordon Lauren, *The Evolution of International Human Rights: Visions Seen* (Philadelphia : University of Pennsylvania Press, 2010); Anatoly I. Adamishin & Richard Schifter, *Human Rights, Perestroika, and the End of the Cold War* (Washington, D.C.: United States Institute of Peace Press, 2009); William Burke-White, "Human Rights and National Security: The Strategic Correlation," *Harvard Human Rights Journal* 17 (2004): 249-280; and Hilary Mantel, "The War Against Women," *New York Review of Books* April 30, 2009.

15. Richard B. Bilder, "Judicial Procedures Relating to the Use of Force," in Lori Fisler Damrosch & David J. Scheffer, *Law and Force in the New International Order* (Boulder: Westview Press, 1991) and *Peace With Justice: Selected Addresses by Dwight David Eisenhower* (New York, Columbia University Press, 1961) (Eisenhower favors compulsory jurisdiction for ICJ).
16. See www.nobelprize.org/nobel_prizes/peace/laureates/1906/roosevelt-lecture.html (Theodore Roosevelt's 1910 Nobel Peace Prize lecture urges creation of world court with enforcement powers via "some form of international police power"); David Kennedy, "The Move to Institutions," *Cardozo Law Review* 8, no.5 (1987): 841-979; (prior to WWI, many prominent American jurists, statesmen, and industrialists, such as William Howard Taft, favored various forms of "world peace through law"); and Allan McKnight & Keith Suter, *The Forgotten Treaties: A Practical Plan for World Disarmament* (Melbourne: Law Council of Australia, 1983). (1961: McCloy-Zorin Statement of Agreed Principles for Disarmament Negotiations, initiated by Eisenhower and Kennedy, called for "general and complete disarmament," with "procedures for peaceful settlement of disputes" and "an international police force"). See also Lincoln P. Bloomfield, ed., *International Military Forces: The Question of Peacekeeping in an Armed and Disarming World* (Boston: Little, Brown, 1964); Elise Boulding & Randall Forsberg, *Abolishing War: Dialogue With Peace Scholars* (Cambridge: Boston Research Center for the 21st Century, 1998); and James T. Ranney, "Beyond Minimal Deterrence—An Approach to Nuclear Disarmament," *Journal of World Peace* 4 (1987):18-20.
17. Tad Daley, *Apocalypse Never: Forging the Path to a Nuclear Weapon-Free World* (New Brunswick: Rutgers University Press, 2010); "Press Launch – Abolishing Nuclear Weapons," *The International Institute for Strategic Studies* www.iiss.org/events-calendar/2008-events-archive/September-2008/press-launch-abolishing-nuclear-weapons; and Lawrence S. Wittner, *Confronting the Bomb: A Short History of the World Nuclear Disarmament Movement* (Stanford: Stanford University Press, 2009).
18. See Jonathan Schell, *The Abolition* (New York: Knopf, 1984); Harold Feiveson, Richard Ullman & Frank Von Hippel, "Reducing U.S. and Soviet Arsenals," *Bulletin of the Atomic Scientists* 41, no.7 (1985): 144; Robert Johansen, *Toward an Alternative Security System* (New York: World Policy Institute, 1983); and Mark Sommer, *Beyond the Bomb: Living Without Nuclear Weapons*, at 52-55 (Massachusetts: Expro Press, 1985).
19. Cf. Nina M. Serafino, "The Global Peace Operations Initiative: Background and Issues for Congress" (Washington, D.C.: Congressional Information Service, Library of Congress, 2009) (even the Bush Administration favored multilateral peace-keeping and stabilization forces).
20. Pankaj Mishra, "The Misunderstood Muslims," *New York Review of Books* November 17, 2005 (reviewing books arguing that religious and gender rights reform is already under way in most of the Muslim world); Karen Armstrong, *The Battle for God: Fundamentalism in Judaism, Christianity, and Islam* (London: HarperCollins, 2000) (the author in 2008 called for creation of an interfaith Charter of Compassion devoted to shared moral priorities to foster greater global understanding); Irshad Manji, *The Trouble With Islam Today: A Muslim's Call for Reform in Her Faith* (New York: St. Martin's Press, 2008) (arguing for a return to the original Muslim emphasis upon critical thinking); and Zachary Karabell, *Peace Be Unto You: The Story of Muslim, Christian, and Jewish Coexistence* (New York: Knopf, 2008). Cf. also "The online ummah," *The Economist* August 18, 2012 (internet is opening up Islam, allowing the younger generation to "distance themselves from older, traditional practices").

Federalism and Global Governance

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Abstract

It is becoming increasingly clear that the concept of the absolutely sovereign nation-state is a dangerous anachronism in a world of thermonuclear weapons, instantaneous communication, and economic interdependence. Probably our best hope for the future lies in developing the United Nations into a World Federation. The strengthened United Nations should have a legislature with the power to make laws that are binding on individuals, and the ability to arrest and try individual political leaders for violations of these laws. The world federation should also have the power of taxation, and the military and legal powers necessary to guarantee the human rights of ethnic minorities within nations.

1. Making the United Nations into a Federation

A federation of states is, by definition, a limited union where the federal government has the power to make laws that are binding on individuals, but where the laws are confined to interstate matters, and where all powers not expressly delegated to the federal government are retained by the individual states. In other words, in a federation each of the member states runs its own internal affairs according to its own laws and customs; but in certain agreed-on matters, where the interests of the states overlap, authority is specifically delegated to the federal government.

Since the federal structure seems well suited to a world government with limited and carefully-defined powers that would preserve as much local autonomy as possible, it is worthwhile to look at the histories of a few of the federations. There is much that we can learn from their experiences.

2. The Success of Federations

Historically, the federal form of government has proved to be extremely robust and successful. Many of today's nations are federations of smaller, partially autonomous, member states. Among these nations are Argentina, Australia, Austria, Belgium, Brazil, Canada, Germany, India, Mexico, Russia, Spain, South Africa and the United States.

The Swiss Federation is an interesting example, because its regions speak three different languages: German, French and Italian. In 1291, citizens of Uri, Schwyz and Unterwalden, standing on the top of a small mountain called Rütli, swore allegiance to the first Swiss

federation with the words “we will be a one and only nation of brothers”. During the 14th century, Luzern, Zürich, Glarus, Zug and Bern also joined. Later additions during the 15th and 16th centuries included Fribourg, Solothurn, Basel, Schaffhausen and Appenzell. In 1648, Switzerland declared itself to be an independent nation, and in 1812, the Swiss Federation declared its neutrality. In 1815, the French-speaking regions Valais, Neuchatel and Genève were added, giving Switzerland its final boundaries.

In some ways, Switzerland is a very advanced democracy, and many issues are decided by the people of the cantons in direct referenda. On the other hand, Switzerland was very late in granting votes to women (1971), and it was only in 1990 that a Swiss federal court forced Appenzell Innerrhoden to comply with this ruling. Switzerland was also very late in joining the United Nations (10 September, 2002).

The federal Constitution of United States of America is one of the most important and influential constitutions in history. It later formed a model for many other governments, especially in South America. The example of the United States is especially interesting because the original union of states formed by the Articles of Confederation in 1777 proved to be too weak, and it had to be replaced eleven years later by a federal constitution.

During the revolutionary war against England the 13 former colonies sent representatives to a Continental Congress, and on May 10, 1776, the Congress authorized each of the colonies to form its own local provincial government. On July 4, 1776 it published a formal Declaration of Independence. The following year, the Congress adopted the Articles of Confederation defining a government of the new United States of America. The revolutionary war continued until 1783, when the Treaty of Paris was signed by the combatants, ending the war and giving independence to the United States. However, the Articles of Confederation soon proved to be too weak. The main problem with the Articles was that laws of the Union acted on its member states rather than on individual citizens.

In 1887, a Constitutional Convention was held in Philadelphia with the aim of drafting a new and stronger constitution. In the same year, Alexander Hamilton began to publish “The Federalist Papers”, a penetrating analysis of the problems of creating a workable government uniting a number of semi-independent states. The key idea of “The Federalist Papers” is that the coercion of states is neither just nor feasible, and that a government uniting several states must function by acting on individuals. This central idea was incorporated into the federal Constitution of the United States, which was adopted in 1788. Another important feature of the new Constitution was that legislative power was divided between the Senate, where the states had equal representation regardless of their size, and the House of Representatives, where representation was proportional to the populations of the states. The functions of the executive, the legislature and the judiciary were separated in the Constitution, and in 1789 a Bill of Rights was added.

George Mason, one of the architects of the federal Constitution of the United States, believed that “such a government was necessary as could directly operate on individuals, and would punish those only whose guilt required it”, while James Madison (another drafter of the U.S. federal Constitution) remarked that the more he reflected on the use of force, the more he doubted “the practicability, the justice and the efficacy of it when applied to people collectively, and not individually”. Finally, Alexander Hamilton, in his “The Federa-

list Papers”, discussed the Articles of Confederation with the following words: “To coerce the states is one of the maddest projects that was ever devised... Can any reasonable man be well disposed towards a government which makes war and carnage the only means of supporting itself, a government that can exist only by the sword? Every such war must involve the innocent with the guilty. The single consideration should be enough to dispose every peaceable citizen against such a government... What is the cure for this great evil? Nothing, but to enable the... laws to operate on individuals, in the same manner as those of states do.”

Because the states were initially distrustful of each other and jealous of their independence, the powers originally granted to the US Federal Government were minimal. However, as they evolved, the Federal Government of the United States gradually became stronger, and bit by bit it became involved in an increasingly wide range of activities.

“The successes and problems of the European Union provide invaluable experience as we consider the measures that will be needed to make the United Nations into a federation.”

The formation of the Federal Government of Australia is interesting because it illustrates the power of ordinary citizens to influence the large-scale course of events. In the 19th century, the six British colonies that were later to be welded into the Commonwealth of Australia imposed tariffs on each other, so that citizens living near the Murray River (for example) would have to stop and pay tolls each time they crossed the river. The tolls, together with disagreements over railways linking the colonies, control of river water and other common concerns, finally became so irritating that citizens’ leagues sprang up everywhere to demand federation. By the 1890s such federation leagues could be found in cities and towns throughout the continent.

In 1893, the citizens’ leagues held a conference in Corowa, New South Wales, and proposed the “Corowa Plan”, according to which a Constitutional Convention should be held. After this, the newly drafted constitution was to be put to a referendum in all of the colonies. This would be the first time in history that ordinary citizens would take part in the nation-building process. In January 1895, the Corowa Plan was adopted by a meeting of Premiers in Hobart, and finally, despite the apathy and inaction of many politicians, the citizens had their way: The first Australian federal election was held in March 1901, and on May 9, 1901, the Federal Parliament of Australia opened. Australia was early in granting votes to women (1903). Its voting system has evolved gradually. Today, there is a system of compulsory voting by citizens for both the Australian House of Representatives and the Australian Senate.

“The European Union has today made war between its member states virtually impossible.”

The successes and problems of the European Union provide invaluable experience as we consider the measures that will be needed to make the United Nations into a federation. On the whole, the EU has been an enormous success, demonstrating beyond question that it is possible to begin with a very limited special-purpose federation and to gradually expand it,

judging at each stage whether the cautiously-taken steps have been successful. The European Union has today made war between its member states virtually impossible. This goal, now achieved, was in fact the vision that inspired the leaders who initiated the European Coal and Steel Community in 1950.

The European Union is by no means without its critics or without problems, but, as we try to think of what is needed for the United Nations' reform, these criticisms and problems are just as valuable to us as are the successes of the EU.

Countries that have advanced legislation protecting the rights of workers or protecting the environment complain that their enlightened laws will be nullified if everything is reduced to the lowest common denominator in the EU. This complaint is a valid one, and two things can be said about it: Firstly, diversity is valuable, and therefore it may be undesirable to homogenize legislation, even if uniform rules make trade easier. Secondly, if certain rules are to be made uniform, it is the most enlightened environmental laws or labor laws that ought to be made the standard, rather than the least enlightened ones. Similar considerations would hold for a reformed and strengthened United Nations.

Another frequently heard complaint about the EU is that it takes decision-making far away from the voters, to a remote site where direct political will of the people can hardly be felt. This criticism is also very valid. Often, in practice, the EU has ignored or misunderstood one of the basic ideas of federalism: A federation is a compromise between the desirability of local self-government, balanced against the necessity of making central decisions on a few carefully selected issues. As few issues as possible should be taken to Bruxelles, but there are certain issues that are so intrinsically transnational in their implications that they must be decided centrally. This is the principle of subsidiarity, so essential for the proper operation of federations: local government whenever possible, and only a few central decisions when absolutely necessary. In applying the principle of subsidiarity to a world government of the future, one should also remember that UN reform will take us into a new and uncharted territory. Therefore it is prudent to grant only a few carefully chosen powers, one at a time, to a reformed and strengthened UN, to see how these work, and then to cautiously grant other powers, always bearing in mind that wherever possible, local decisions are the best.

3. Weaknesses of the UN Charter and Steps Towards a World Federation

3.1 Laws must be made binding on individuals

Among the weaknesses of the present U.N. Charter is the fact that it does not give the United Nations the power to make laws which are binding on individuals. At present, in international law, we treat nations as though they were persons: We punish entire nations by sanctions when the law is broken, even when only the leaders are guilty, even though the burdens of the sanctions fall most heavily on the poorest and least guilty of the citizens, and even though sanctions often have the effect of uniting the citizens of a country behind the guilty leaders. To be effective, the United Nations needs a legislature with the power to make laws which are binding on individuals, and the power to arrest individual political leaders for flagrant violations of international law.

The present United Nations Charter is similar to the United States' Articles of Confederation, a fatally weak union that lasted only eleven years, from 1777 to 1788. Like it, the

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UN attempts to act by coercing states. Although the United Nations Charter has lasted almost sixty years and has been enormously valuable, its weaknesses are also apparent, like those of the Articles. One can conclude that the proper way to reform the United Nations is to make it into a full federation, with the power to make and enforce laws that are binding on individuals.

The International Criminal Court, which was established when the Rome Treaty came into force in 2002, is a step in the right direction. The ICC’s jurisdiction extends only to the crime of genocide, crimes against humanity, war crimes, and (at some time in the future) the crime of aggression. In practice, the ICC is open to the criticisms that it is often unable to enforce its rulings and that it lacks impartiality. Nevertheless, the establishment of the ICC is a milestone in humanity’s efforts to replace the brutal military force of powerful governments by the rule of law. For the first time in history, individuals are being held responsible for violating international laws.

3.2 The voting system of the UN General Assembly must be reformed

Another weakness of the present United Nations Charter is the principle of “one nation one vote” in the General Assembly. This principle seems to establish equality between nations, but in fact it is very unfair: For example, it gives a citizen of China or India less than a thousandth the voting power of a citizen of Malta or Iceland. A reform of the voting system is clearly needed. (A recent and detailed discussion of these issues has been given by Dr. Francesco Stipo, See Reference 1.)

One possible plan (proposed by Bertrand Russell) would be for final votes to be cast by regional blocks, each block having one vote. The blocks might be: 1) Latin America 2) Africa 3) Europe 4) North America 5) Russia and Central Asia 6) China 7) India and Southeast Asia 8) The Middle East and 9) Japan, Korea and Oceania.

Today, Ambassadors and Permanent Representatives at the United Nations are appointed by national governments. However, in the long-term future, this system may evolve into a more democratic one, where citizens will vote directly for their representatives, as they do in many federations, such as Australia, Germany, the United States and the European Union.

3.3 The United Nations must be given the power to impose taxes

If the UN is to become an effective World Federation, it will need a reliable source of income to make the organization less dependent on wealthy countries, which tend to give support only to those interventions of which they approve. A promising solution to this problem is the so-called “Tobin tax”, named after the Nobel-laureate economist James Tobin of Yale University. Tobin proposed that international currency exchanges should be taxed at a rate between 0.1 and 0.25 percent. He believed that even this extremely low rate of taxation would have the beneficial effect of damping speculative transactions, thus stabilizing the rates of exchange between currencies. When asked what should be done with the proceeds of the tax, Tobin said, almost as an afterthought, “Let the United Nations have it.”

The volume of money involved in international currency transactions is so enormous that even the tiny tax proposed by Tobin would provide the United Nations with between 100 billion and 300 billion dollars annually. By strengthening the activities of various UN agencies, the additional income would add to the prestige of the United Nations and thus make the organization more effective when it is called upon to resolve international political conflicts.

The budgets of UN agencies, such as the World Health Organization, the Food and Agricultural Organization, UNESCO and the UN Development Programme, should not just be doubled but should be multiplied by a factor of at least twenty. With increased budgets the UN agencies could sponsor research and other actions aimed at solving the world's most pressing problems — AIDS, drug-resistant infectious diseases, tropical diseases, food insufficiencies, pollution, climate change, alternative energy strategies, population stabilization, peace education, as well as combating poverty, malnutrition, illiteracy, lack of safe water and so on. Scientists would be less tempted to find jobs with arms related industries if offered the chance to work on idealistic projects. The United Nations could be given its own television channel, with unbiased news programs, cultural programs, and “State of the World” addresses by the UN Secretary General.

Besides the Tobin tax, other measures have been proposed to increase the income of the United Nations. For example, it has been proposed that income from resources of the sea bed be given to the UN, and that the UN be given the power to tax carbon dioxide emissions. All of the proposals for giving the United Nations an adequate income have been strongly opposed by a few nations that wish to control the UN through their purse strings, especially by the United States, which has threatened to withdraw from the UN if a Tobin tax is introduced. However, it is absolutely essential for the future development of the United Nations that the organization be given the power to impose taxes. No true government can exist without this power. It is just as essential as is the power to make and enforce laws that are binding on individuals.

3.4 The United Nations must be given a standing military force

At present, when the United Nations is called upon to meet an emergency, such as preventing genocide, an ad hoc force must be raised, and the time required to do this often means that the emergency action is fatally delayed. The UN should immediately be given a standing force of volunteers from all nations, ready to meet emergencies. The members of this force would owe their primary loyalty to the UN, and one of its important duties would be to prevent gross violations of human rights.

In the perspective of a longer time-frame, we need to work for a world where national armies will be very much reduced in size, where the United Nations will have a monopoly on heavy armaments, and where the manufacture or possession of nuclear weapons, as well as the export of arms and ammunition from industrialized countries to the developing countries, will be prohibited. (See reference 3).

Looking towards the future, we can foresee a time when the United Nations will have the power to make and enforce international laws which are binding on individuals. Under such circumstances, true police action will be possible, incorporating all of the needed safeguards for lives and property of the innocent.

“ ***The veto power of the Security Council must be eliminated.*** ”

One can hope for a future world where public opinion will support international law to such an extent that a new Hitler or Saddam Hussein or a future Milosevic will not be able to organize large-scale resistance to arrest, a world where international law will be seen by all to be just, impartial and necessary, a well-governed global community within which each person will owe his or her ultimate loyalty to humanity as a whole.

3.5 The veto power of the Security Council must be eliminated

We should remember that the UN Charter was drafted and signed before the first nuclear bomb was dropped on Hiroshima; and it also could not anticipate the extraordinary development of international trade and communication which characterizes the world today. The five permanent members of the Security Council, China, France, Russia, the United Kingdom and the United States, were the victors of World War II, and were given special privileges by the Charter as it was established in 1945, among these the power to veto UN actions on security issues. In practice, the veto power of the P5 nations has made the UN ineffective, and it has become clear that changes are needed. If the Security Council is retained in a World Federation, the veto power must be eliminated.

3.6 Subsidiarity

The need for international law must be balanced against the desirability of local self-government. Like biological diversity, the cultural diversity of humankind is a treasure to be carefully guarded. A balance or compromise between these two desirable goals can be achieved by granting only a few carefully chosen powers to a World Federation with sovereignty over all other issues retained by the member states. This leaves us with a question: Which issues should be decided centrally, and which locally?

The present United Nations Charter contains guarantees of human rights, but there is no effective mechanism for enforcing these guarantees. In fact, there is a conflict between the parts of the Charter protecting human rights and the concept of absolute national sovereignty. Recent history has given us many examples of atrocities committed against ethnic minorities by leaders of nation-states, who claim that sovereignty gives them the right to run their internal affairs as they wish, free from outside interference. One feels that it ought to be the responsibility of the international community to prevent gross violations of human rights, such as genocide; and if this is in conflict with the concept of national sovereignty, then sovereignty must yield.

In the future, overpopulation and famine are likely to become increasingly difficult and painful problems in several parts of the world. Since various cultures take widely different attitudes towards birth control and family size, the problem of population stabilization seems to be one which should be decided locally. At the same time, aid for local family planning programs, as well as famine relief, might appropriately come from global agencies, such as WHO and FAO. With respect to large-scale migration, it would be unfair for a country which has successfully stabilized its own population, and which has eliminated poverty within its own borders, to be forced to accept a flood of migrants from regions of high fertility. Therefore, the extent of immigration should be among those issues to be decided locally.

Security, and controls on the manufacture and export of armaments will require an effective authority at the global level.

The steps needed to convert the United Nations into a World Federation can be taken cautiously, one at a time. Having seen the results of a particular step, one can move on to the next. The establishment of the International Criminal Court is an important first step towards a system of international laws that act on individuals. Another important step would be to give the UN a much larger and more reliable source of income. The establishment of a standing UN emergency military force is another step that ought to be taken in the near future.

4. Obstacles to a World Federation

It is easy to write down what is needed to convert the United Nations into a World Federation. But will not the necessary steps towards a future world of peace and law be blocked by the powerholders of today? Not everyone wants peace. Not everyone wants international law.*

The United Nations was established at the end of the most destructive war the world had ever seen, and its horrors were fresh in the minds of the delegates to the 1945 San Francisco Conference. The main purpose of the Charter that they drafted was to put an end to the institution of war. It was hoped that as a consequence, the UN would also end the colonial era, since war is needed to maintain the unequal relationships of colonialism. Neither of these things happened. War is still with us, and war is still used to maintain the intolerable economic inequalities of neocolonialism. The fact that military might is still used by powerful industrialized nations to maintain economic hegemony over less developed countries has been amply documented by Professor Michael Klare in his books on Resource Wars.

Today, 2.7 billion people live on less than \$2 a day — 1.1 billion on less than \$1 per day. 18 million of our fellow humans die each year from poverty-related causes. In 2006, 1.1 billion people lacked safe drinking water, and waterborne diseases killed an estimated 1.8 million people. The developing countries are also the scene of a resurgence of other infectious diseases, such as malaria, drug-resistant tuberculosis and HIV/AIDS.†

Meanwhile, in 2011, world military budgets reached a total of 1.7 trillion dollars (i.e. 1.7 million million dollars). This amount of money is almost too large to be imagined. The fact that it is being spent means that many people are making a living from the institution of war. Wealthy and powerful lobbies from the military-industrial complex are able to influence mass media and governments. Thus, the institution of war persists, although we know very well that it is a threat to civilization and that it is responsible for much of the suffering that humans experience.

Today's military spending of almost two trillion US dollars per year would be more than enough to finance safe drinking water for the entire world, and to bring primary health care and family planning advice to all. If used constructively, the money now wasted (or worse

*The interested reader can find the "Hague Invasion Act" described on the Internet.

†It would be wrong to attribute poverty in the developing world entirely to war, and to exploitation by the industrialized countries. Rapid population growth is also a cause of poverty. Nevertheless, the enormous contrast between the rich and poor parts of the world is partly the result of unfair trade agreements imposed by means of "regime change" and "nation building", i.e. interference backed by military force.

than wasted) on the institution of war could also help the world to make the transition from fossil fuel use to renewable energy systems.

The way in which some industrialized countries maintain their control over less developed nations can be illustrated by the resource curse, i.e. the fact that resource-rich developing countries are no better off economically than those that lack resources, but are cursed with corrupt and undemocratic governments. This is because foreign corporations extracting local resources under unfair agreements exist in a symbiotic relationship with corrupt local officials.

As long as enormous gaps exist between the rich and poor nations of the world, the task turning the United Nations into an equitable and just federation will be blocked. Thus, we are faced with the challenge of breaking the links between poverty and war. Civil society throughout the world must question the need for colossal military budgets, since, according to the present UN Charter, as well as the Nuremberg Principles, war is a violation of international law, except when sanctioned by the Security Council. By following this path we can free the world from the intolerable suffering caused by poverty and from the equally intolerable suffering caused by war.

"Today, there is a pressing need to enlarge the size of the political unit from the nation-state to the entire world."

5. Governments of Large Nations Compared with Global Government

The problem of achieving internal peace over a large geographical area is not insoluble. It has already been solved. There exist today many nations or regions within each of which there is internal peace, and some of these are so large that they are almost worlds in themselves. One thinks of China, India, Brazil, Australia, the Russian Federation, the United States, and the European Union. Many of these enormous societies contain a variety of ethnic groups, a variety of religions and a variety of languages, as well as striking contrasts between wealth and poverty. If these great land areas have been forged into peaceful and cooperative societies, cannot the same methods of government be applied globally?

Today, there is a pressing need to enlarge the size of the political unit from the nation-state to the entire world. The need to do so results from the terrible dangers of modern weapons and from global economic interdependence. The progress of science has created this need, but science has also given us the means to enlarge the political unit: Our almost miraculous modern communications media, if properly used, have the power to weld all of humankind into a single supportive and cooperative society.

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Myth, Hiroshima and Fear: How We Overestimated the Usefulness of the Bomb*

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Abstract

Recent evidence from World War II and the Cold War shows that nuclear weapons are far less useful as military and political tools than has been believed. Far from giving a madman the power to conquer the world, nuclear weapons are clumsy, dangerous technology with very few real uses — even if you have a monopoly.

No one does his best thinking when gripped by fear. This is why audiences often call urgently to people on movie screens: “No! Get out of the cabin! Now!” We know that people who are terrified make elementary mistakes of judgment.

It is hard to remember now how overpowering the fear of the Cold War was. Both sides were infected with deep suspicion and a sense that the other side was aggressive and threatening. The fact that these culturally different and unfamiliar peoples, with very different ideologies, had the power to obliterate each other made the tension even more acute. It should not be surprising, therefore, to discover that many of the ideas that gained currency during the Cold War have turned out, in retrospect, to be less than sound.

The most important “fact” about nuclear weapons is that they carry an enormously powerful emotional freight. People fear them. Henry L. Stimson, the retired American Secretary of War who made the first semi-official pronouncement on nuclear weapons in February 1947 said that the most important characteristic of nuclear weapons was that they were “psychological weapons.” Stimson knew that you could create the same kind of devastation and death using conventional bombers (if you used enough of them), but nuclear weapons, he believed, had a special fear factor. The United States bombed 68 cities in Japan in the summer of 1945. Many of them suffered as much damage as Hiroshima, but the Japanese had not suddenly surrendered after any of those conventional bombings. Even the bombing of Tokyo, which had led off the summer of city bombing in March, with an attack that left more people dead than any other attack (including Hiroshima) and destroyed more square miles than any other attack (something like the area of Washington, DC) had not forced Japan to surrender.¹

So, Stimson concluded, nuclear weapons were special. And soon everyone else concluded they were special, too. After all, the Japanese said they surrendered because of the bomb.

*Some of the arguments presented here are made in greater depth in the author’s forthcoming book: Ward Wilson, *Five Myths About Nuclear Weapons* (New York: Houghton Mifflin Harcourt, 2012), to be published on January 15, 2013.

The Emperor, in his surrender radio broadcast to Japan, talked about “a new and most cruel bomb” that the Americans had which had forced them to surrender. So, it was natural for Americans to believe that their new bomb was something special. And since America was alone astride the world after World War II — Europe was in a shambles, the Soviet Union was torn up, China was reeling, U.S. GDP represented more than 50 percent of the world’s GDP — the notion that nuclear weapons were the new currency of power spread easily outward to other countries from the United States. Russia built its own nuclear weapon in 1949. Great Britain followed not long after. And then France, and China and Israel. It was soon an accepted fact that nuclear weapons were the standard by which nations were judged. After all, only states with nuclear weapons got to sit on the UN Security Council.

And then came the Cold War: a period of tense confrontation in which every day seemed likely to provoke the crisis that would lead to the final war. Children practiced hiding under their desks. Communities found the deepest basements and stocked them with supplies to serve as bomb shelters in the event of war. In the United States there were periodic tests of the emergency broadcast system — emergency communications that would be used to warn that you had half an hour before the nuclear weapons started falling. You’d be watching a football game on a sunny fall afternoon and the TV would interrupt the game to test the emergency broadcast system and remind you that at even the most innocent of moments nuclear war might be only minutes away.

It was a time of immense fear. Those who did not live through it may find it difficult to believe and peculiar to imagine. But that fear had real practical political consequences. It made distrust seem the safest course. It made worst-case analysis seem prudent. It fueled mistrust and put tempers on edge. Is it any wonder that some of the doctrines developed during this period seem out of tune today? They have the misperceptions created by fear embedded in their logic. They are based on assessments of human nature made while standing under the Sword of Damocles.

The result of this process is described by Phillip Green in *Deadly Logic: The Theory of Nuclear Deterrence*. He talks about studying nuclear deterrence at length and being left with “a feeling of strangeness.”

Almost all the works one encountered in this field seemed invested with a tremendously authoritative air, an air that one associated with scholarly work in the most well-established and systematically researched disciplines; and somehow all this authority produced policy proposals and arguments that one felt absolutely no urge to agree with. Some were at best questionable; . . . Still others seemed absurd . . .²

And it turns out that Cold War doctrines about nuclear weapons — the doctrines that still justify nuclear-armed states today — are based on a series of mistakes of fact, errors of judgment, and plain myths.

The first and most important mistake is the original one. How could nuclear weapons accomplish in three days what conventional bombing had failed to do in five months? It turns out they couldn’t. It turns out that Japan surrendered because the Russians declared war on August 9th (the same day the United States bombed Nagasaki). Japan’s leaders knew that while they might be able to fight one last ditch defense on the beaches of southern Japan, and they might be able to inflict such severe losses that the Americans might offer better

surrender terms, that once you add a second great power to the mix, attacking from the north, the game was up. Stalin's assessment was that he would have troops in Hokkaido (the northernmost island of Japan proper) in 10 to 14 days. And that was a pretty realistic assessment. Japan's leaders thought about the prospect of surrendering to the United States or of being quickly overrun by communist troops and they chose to surrender to the U.S.

They said that they were surrendering because of the Bomb, however, because it made the perfect explanation for having lost. If you had just led your country into a disastrous war and were trying to maintain the legitimacy of your regime, what would you rather say: "We made mistakes. We had horrible lapses of strategic misjudgment. The Army and Navy consistently failed to work closely together. We blew it."? Or would you rather say, "The enemy made an unbelievable scientific breakthrough, they invented a miracle weapon, and that's why we surrendered. It wasn't our fault."?

The difficulty is that the Americans believed the Japanese. After all, they wanted to believe them. They wanted this weapon (that only they had) to be a miracle weapon. They wanted the 2 billion dollars (in 1942 dollars) that they had spent on developing it to have been worth it. They wanted the added prestige and increased influence that they imagined would go with possessing "miracle" weapons.

And once the Cold War broke out, suggesting that the Japanese had actually surrendered because the Russians had forced them to it would have been seen as unpatriotic in the United States. And because of the United States' preeminent position in the world, it was easy for others to accept this view of nuclear weapons and the world.

All the ideas about nuclear weapons include this notion that they carry a special horror and they are easy to believe: nuclear war would be horrible. But the idea actually has two parts. First, that a nuclear attack would be horrible to contemplate (no argument there). But secondly, and more importantly, that that sense of horror can motivate governments to make radically different decisions from the ones they would make if confronted only with conventional weapons (like surrender in a war.) It is this second half of the fundamental idea about nuclear weapons that is unproved. And on which so much of nuclear weapons theory depends.

Consider nuclear deterrence.³ It is often considered to be a relatively robust and powerful force. After all, despite a series of high-stakes crises during the Cold War, nuclear deterrence restrained leaders in every instance. At least, that is the story that proponents of nuclear weapons usually tell. And, as with Hiroshima, on the surface this story has a certain plausibility. We did live through the Cold War without a nuclear war. But when one examines the facts closely, the reality appears to be significantly different.

The most important piece of evidence in the debate about nuclear deterrence has always been the Cuban Missile Crisis. The most dangerous of all the Cold War Crises, it is also arguably the closest the world has come to nuclear war. It has traditionally been given a leading role in the proof that nuclear deterrence works effectively. I still remember sitting in the office of a distinguished international policy scholar at Harvard voicing doubts about nuclear deterrence, and having him say, "But surely, Ward, the Cuban Missile Crisis proves that nuclear deterrence works? After all, the Soviets put the missiles in, there was a risk of war, and then they took them out." What could be clearer than that?

Nuclear deterrence is sometimes described as operating this way: a leader is faced suddenly with the danger of nuclear war, he/she thinks about the consequences of nuclear war, and then pulls back. This is a sensible way to imagine the process. But if this is the way that nuclear deterrence works, then it is clear that it failed conspicuously during the Cuban Missile Crisis. After all, Kennedy was confronted with a crisis when he found out the Russians were putting nuclear missiles in Cuba. Kennedy was aware that the crisis might lead to nuclear war. (He himself said the crisis had between a one third and fifty-fifty chance of leading to war afterward.) In the week of secret deliberations that preceded the United States announcing that they were blockading Cuba, the possibility of nuclear war was mentioned 60 times. So, the danger of nuclear war was clear to Kennedy. Yet, he did not pull back. He did not confront the danger and then withdraw. He saw the nuclear danger and went full speed ahead.

And Kennedy was right to say that the danger of war was quite high. In his recent book, *One Minute to Midnight*, Michael Dobbs recounts at least three situations that came within minutes of leading to nuclear weapons being used. A Russian sub-captain wanting to fire nuclear torpedoes, U.S. fighters armed only with nuclear tipped missiles preparing to tangle with Soviet fighters over Alaska in order to save a lost U-2 spy plane.⁴ And so on. How can we say with confidence that nuclear deterrence works reliably when Kennedy so clearly ignored a real danger of nuclear war?

The Cuban Missile Crisis is not the only instance of nuclear deterrence failing. Again and again, if you revisit these crises, you find instances of leaders ignoring the danger of nuclear war and plunging ahead, intensifying a crisis. The Egyptians and Syrians attacking the Israelis despite the Israeli monopoly on nuclear weapons in 1973. Stalin ignoring the U.S. monopoly on nuclear weapons in order to blockade Berlin in 1948. During the Korean War, despite the fact that shifting of B-29s to England had supposedly kept the Berlin Crisis from escalating, a similar shift of B-29s to bases in the Pacific failed to keep China from entering the conflict.⁵ And so on. None of these failures of nuclear deterrence led to nuclear war, thankfully. But they are real failures nonetheless.

We know that ordinary deterrence — deterring children from misbehaving, deterring criminals, and so on — fails pretty regularly. Even the most severe penalties, like the death penalty, consistently fail to deter some percentage of the time. (After all, murders are still committed in the United States where the death penalty is employed.) The advocates of nuclear deterrence have always claimed that it is an exceptional form of deterrence, that the special psychological power of nuclear weapons gives nuclear deterrence a unique capability to effectively deter. Yet, these Cold War failures put the lie to this complacent confidence that nuclear deterrence will surely work even though other forms fail.

Of course, the same phenomenon of fear operated on nuclear deterrence that operated on nuclear weapons ideas in general. People desperately wanted to believe that nuclear deterrence worked because they were so afraid of nuclear war. They had a vested interest in interpreting Cold War crises as supporting the reliability of nuclear deterrence. But decisions made under extreme duress are rarely sound judgment.

The problem with nuclear deterrence is that the consequences of nuclear war are so extraordinarily terrible that failure is unacceptable. Nuclear deterrence must be so reliable that the

“Why would you ever keep technology that is very dangerous but not very useful?”

chances of it failing are vanishingly small. Otherwise, when we rely on nuclear deterrence, we are simply guaranteeing that one day we will face the catastrophe of nuclear war.

Nuclear weapons are inherently clumsy. Even when you try to use them selectively or “surgically” it is almost impossible to avoid killing innocent civilians in large numbers. In a famous study by Frank von Hippel and Sidney Drell in 1976, the two physicists looked closely at a surgical attack scenario in which the Soviet Union struck only U.S. missile silos, submarine bases and airfields that held nuclear armed bombers. The results of this carefully limited attack were appalling. Assuming March winds, something like 20 million American civilians would have died, mostly from radiation.⁶

It is perhaps telling that the U.S. military has increasingly used smart bombs and drones in its wars and battles, but has never yet found a situation that required the use of nuclear weapons in nearly seventy years. Most military targets are building-sized or smaller. Why would you want to use a weapon that forces you to destroy a third of the city in order to destroy one building? It seems far more likely that nuclear weapons are messy, blundering, outmoded weapons than that they are magical weapons with the power to coerce enemies in almost any circumstances. There is no question that nuclear weapons are dangerous. Any use carries with it the possibility of escalation to a catastrophic all-out war. But there is a serious question as to whether nuclear weapons are particularly useful. Why would you ever keep technology that is very dangerous but not very useful?

“A clear-eyed, unbiased reexamination of nuclear weapons is long overdue.”

We rely on nuclear deterrence out of habit and because doctrines and ideas developed during the Cold War got locked in place by fear. But now we have emerged from the Cold War. It makes sense to reexamine the ideas of that time and critically reevaluate evidence, doctrines and judgments made during that time. It seems clear in retrospect that we exaggerated the political power of nuclear weapons as a result of Hiroshima, and we exaggerated the reliability of nuclear deterrence by twisting the evidence of Cold War crises. A clear-eyed, unbiased reexamination of nuclear weapons is long overdue.

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Notes

1. For more on the Hiroshima argument see Ward H. Wilson, “The Winning Weapon? Rethinking Nuclear Weapons in Light of Hiroshima,” *International Security* 31, no. 4, (2007): 162-179.
2. Phillip Green, *Deadly Logic: The Theory of Nuclear Deterrence* (Columbus: Ohio State University Press, 1966), iv.
3. For a more in depth discussion on problems with nuclear deterrence, see Ward H. Wilson, “The Myth of Nuclear Deterrence,” *Nonproliferation Review* 15, no. 3 (2008): 421-439.
4. Michael Dobbs, *One minute to Midnight: Kennedy, Khrushchev, and Castro on the Brink of Nuclear War* (New York: Alfred A. Knopf, 2008).
5. For more on Cold War crisis failures of nuclear deterrence, see, forthcoming, Ward H. Wilson, *Five Myths About Nuclear Deterrence* (New York: Houghton Mifflin Harcourt, 2013).
6. Sidney Drell and Frank von Hippel, “Limited Nuclear War,” *Scientific American* 235, no. 5 (1976): 27-37.

How Reliance on Nuclear Weapons Erodes and Distorts International Law and Global Order*

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Abstract

Deployment of nuclear forces as an international security mechanism for prevention of major war is far removed from the world envisaged by the United Nations Charter in which threat or use of force is the exception, not the rule. Reliance on nuclear weapons has also distorted the development of major instruments of international humanitarian law and international criminal law, the 1977 Protocol I to the Geneva Conventions and the 1998 Rome Statute of the International Criminal Court. Awareness is deepening of the inherent incompatibility of reliance on nuclear weapons with an ever more entrenched normative framework stressing states' responsibilities to protect their populations against atrocities and to comply with international humanitarian law and the Rome Statute. International humanitarian law is a solid foundation for the emerging norm of non-use of nuclear weapons and for building a legal framework of a nuclear-weapons-free world that is universal in its approach.

The most serious problem arising from major powers' reliance on nuclear weapons is that one day, directly or indirectly, that posture probably will result in nuclear detonations as acts of state or non-state terrorism. Yet that terrifying risk has been flagged for decades without so far ending reliance on nuclear weapons under the label of "nuclear deterrence". Another approach is to examine the costs of reliance on nuclear weapons regardless of when or even whether they are again exploded in war or terrorism. There is damage to the environment, and harm to health. There is diversion of resources.

There are the debilitating psychological effects of living with the risk of apocalypse, and the moral corrosion of relying on a threat of annihilation for security. The first part of this paper addresses another cost: How reliance on nuclear weapons erodes and distorts a global public good – international order structured by international law. The second part turns the equation around and indicates how developing international law and institutions can contribute to the establishment of a world free of nuclear weapons.

"Sometimes, the most basic and simple truths are the ones that escape notice."

* This paper is based upon remarks delivered by the author at "The Dangers of Nuclear Deterrence" Conference, February 16-17, 2011, Nuclear Age Peace Foundation, Santa Barbara, California, USA, and at a Nuclear Abolition Forum side-event, "Moving Beyond Deterrence to a Nuclear Weapons Free World," May 9, 2012, at a Nuclear Non-Proliferation Treaty Preparatory Committee meeting in Vienna.

1. The Erosive Effect of Nuclear Weapons on International Law and Global Order

1.1 Nuclear Weapons and the United Nations Charter

Sometimes, the most basic and simple truths are the ones that escape notice. Compare the security supposedly provided by reliance on nuclear weapons with the security system envisaged by the United Nations Charter. Consider again these Charter provisions:

Article 2(3): All Members shall settle their international disputes by peaceful means in such a manner that international peace and security, and justice, are not endangered.

Article 2(4): All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations.

“Deployment of nuclear forces as an international security mechanism for prevention of major war is far removed from the world envisaged by the UN Charter in which threat or use of force is the exception, not the rule.”

The only exceptions to the prohibition on the threat or use of force are when the UN Security Council directs or authorizes force to maintain international peace and security, under Chapter VII, and the exercise of self-defense against an armed attack under Article 51.

Deployment of nuclear forces as an international security mechanism for prevention of major war is far removed from the world envisaged by the UN Charter in which threat or use of force is the exception, not the rule. International security allegedly provided by the permanent, ongoing threat of nuclear force, is the inverse of that world; it turns the UN Charter on its head. In its 1996 nuclear weapons advisory opinion, the International Court of Justice (ICJ) analyzed the UN Charter in relation to the legal status of “threat.”* However, the Court failed, though relevant arguments were made by the Philippines,¹ to consider the incompatibility of nuclear deterrence with the overall scheme and purposes of the Charter. It is past time to take up this fundamental question. To envision the peace and security of a world without nuclear weapons, as President Barack Obama memorably did in his April 2009 speech in Prague, we need only return to the vision — and the obligations — enshrined in the UN Charter.

Another key point relating to the UN Charter: Nuclear deterrence as now practiced is understood to involve major powers; other states are excluded and cannot acquire nuclear weapons. However, a just and therefore sustainable legal order requires that the same rules apply to all. One manifestation of the instability caused by the possession of nuclear weapons by some states but not others is the doctrine of preventive war. That doctrine was put into

* “Legality of Threat or Use of Nuclear Weapons,” Advisory Opinion of 8 July 1996, *International Court of Justice*, p. 226 (hereafter “Nuclear Weapons Advisory Opinion”), ¶¶ 47-48.

practice in the Iraq invasion and the Israeli strike on Syria and is raised with respect to Iran. Preventive war is contrary to the UN Charter, which permits use of force only in self-defense against actual or perhaps imminent attack or by authorization of the Security Council.²

Considering the subsequent rise of preventive war, the ICJ was prophetic in its 1996 opinion when it said:

*In the long run, international law, and with it the stability of the international order which it is intended to govern, are bound to suffer from the continuing difference of views with regard to the legal status of weapons as deadly as nuclear weapons.**

In short, major powers' reliance on nuclear weapons, and its corollary, preventive war to prevent proliferation, are profoundly corrosive of the UN Charter.

1.2 Nuclear Weapons and International Humanitarian Law

Reliance on nuclear weapons has also distorted the development of major instruments of international humanitarian law and international criminal law, the 1977 Protocol I to the Geneva Conventions and the 1998 Rome Statute of the International Criminal Court.

The story begins much earlier. In the years immediately following the US atomic bombings of Japanese cities, from 1945 to 1950, the International Committee of the Red Cross (ICRC) maintained strongly that the effects of nuclear weapons are incompatible with the protection of non-combatants in accordance with international law, and called for states to reach an agreement on the prohibition of such weapons.³

The major powers rebuffed the ICRC's call for a ban, and to make progress on other fronts, the ICRC basically went silent on the subject until its recent striking and important interventions. Protocol I is a comprehensive codification of the law of armed conflict governing the conduct of hostilities, a central part of what is now widely known as International Humanitarian Law (IHL). At the outset of its negotiation, the ICRC stated:

Problems relating to atomic, bacteriological and chemical warfare of subjects of international agreements or negotiations by governments, and in submitting these draft protocols [the ICRC] does not intend to broach these problems. It should be borne in mind that the Red Cross as a whole at several International Red Cross Conferences has clearly made known its condemnation of weapons of mass destruction and has urged governments to reach agreements for banning their use.⁴

As negotiated, in addition to prohibiting attacks upon civilians, Protocol I robustly prohibits indiscriminate means and methods of warfare. Thus it bans attacks "which cannot be directed at a specific military objective,"[†] attacks whose effects cannot be limited and consequently are of "a nature to strike military objectives and civilians or civilian objects without distinction,"[‡] and area bombing as practiced in World War II.[§] It also bans disproportionate attacks, those "which may be expected to cause incidental loss of civilian life ... which would

*Nuclear Weapons Advisory Opinion, ¶ 98.

† Article 51(4)(b).

‡ Article 51(4)(c).

§ Article 51(5)(a).

be excessive in relation to the concrete and direct military advantage anticipated.”* It additionally prohibits attacks “against the civilian population or civilians by way of reprisals.”† And it bans employment “of methods or means of warfare which are intended or may be expected, to cause widespread, long-term and severe damage to the natural environment.”‡

Nuclear weapons could not be used in compliance with Protocol I’s detailed prohibitions. However, citing the above-quoted ICRC statement, the United Kingdom, the United States, and some allied countries upon signing or ratifying denied the application of “new” rules contained in Protocol I to nuclear weapons.⁵ France took the extreme position of denying that any provision of Protocol I, whether or not it codifies customary law, applies to nuclear weapons.⁶ In its advisory opinion, the ICJ noted that “all states are bound by those rules in Additional Protocol I which, when adopted, were merely the expression of the pre-existing customary law.”§ Customary law is based upon state practice and legal opinions and is universally binding, regardless of whether a state is a party to a relevant treaty.

What do the United States and United Kingdom accept as pre-existing customary rules codified in Protocol I? Certainly the prohibition of attacks upon civilians, as well as a general rule – not necessarily as formulated in Protocol I — that collateral effects must be proportionate to the military advantage. However, at least the United States does not clearly accept the customary status of the various specific rules prohibiting indiscriminate attacks, and both reject the customary status of the prohibitions of reprisals and of widespread, severe, and long-term damage to environment. In their view, use of nuclear weapons could be compatible with the customary rules they do accept.

Without specific reference to Protocol I, in 1996 the International Court of Justice identified as customary one element of the general prohibition on indiscriminate attacks. The Court stated that a cardinal rule of IHL is that “States must never make civilians the object of attack and must consequently never use weapons that are incapable of distinguishing between civilian and military targets.”¶ That was a central basis for the Court’s conclusion that the use of nuclear weapons is “generally” contrary to international law.** States possessing nuclear weapons have subsequently accepted neither the Court’s formulation of the rule or its conclusion of “general” illegality.

The outcome of this exercise is that several states possessing nuclear weapons have claimed an exemption with respect to those weapons from important rules set forth in a major IHL instrument, Protocol I. Further, several states possessing nuclear weapons have not become parties to Protocol I, India, Pakistan, Israel, and the United States (the latter signed but has not ratified the instrument). At least for the United States, the desire to shield its reliance on nuclear weapons from the application of IHL has played a role in the failure to ratify; the perception seems to be that understandings and reservations may not suffice for this purpose.

Nuclear weapons continued to distort international law when the Rome Statute was

* Article 51(5)(b).

† Article 51(6).

‡ Article 35(3).

§ Nuclear Weapons Advisory Opinion, ¶ 84.

¶ Nuclear Weapons Advisory Opinion, ¶ 78.

** Nuclear Weapons Advisory Opinion, ¶ 105(2)E.

negotiated. The Statute provides that use of certain weapons, poison, poisonous gases and analogous materials, and expanding bullets, is per se a war crime. There was a very good case for inclusion as well of biological and chemical weapons. The Statute was negotiated on the basis that it reflects customary international law, and widely ratified conventions prohibit use and possession of those weapons. It is true that chemical weapons, and arguably biological weapons, are captured by the reference to poisonous gases and analogous materials, which is based on the 1925 Geneva Gas protocol. However, the Non-Aligned Movement states did not want to see biological and chemical weapons expressly included if nuclear weapons were not, and the nuclear-dependent countries of course absolutely refused to include nuclear weapons. So now, absurdly, use of poison, poisonous gases, and expanding bullets is a war crime, but not nuclear weapons, and not clearly biological and chemical weapons!

“Absurdly, use of poison, poisonous gases, and expanding bullets is a war crime, but not nuclear weapons, and not clearly biological and chemical weapons!”

The failure to specifically name nuclear weapons in the Rome Statute does not mean the Statute is inapplicable to use of those weapons. Under the general definitions of war crimes, crimes against humanity, and genocide, typical uses of nuclear weapons would be international crimes for which responsible individuals could be prosecuted assuming jurisdiction can be established. In view of this, France purported upon ratification to say that the Statute does not apply to nuclear weapons.⁷ That is a wholly implausible position. Also on ratification, the UK attempted to apply understandings it claimed, as discussed above, with respect to Protocol I.⁸ Other states possessing nuclear weapons have not become parties to the Rome Statute: Russia, China, India, Pakistan, United States, Israel, and North Korea. There are multiple reasons why these states, so reliant upon the potential use of military power, are cautious about the Rome Statute. But it seems likely that one of them is the incompatibility of the Statute with the use of nuclear weapons.

From the standpoint of most states and international lawyers, the nuclear powers' efforts to exempt and shield nuclear weapons from the application of IHL and international criminal law generally do not withstand scrutiny. Still, the efforts weaken the application of law to nuclear weapons, certainly *within* states possessing nuclear arsenals and their allies. The integrity of international law is also undermined; fundamental legal rules are supposed to apply to all states equally. When combined with the two-tier systems of the Nuclear Non-Proliferation Treaty and the Security Council, in each of which the Permanent Five have privileged positions, the overall effect of some states' possession of nuclear weapons and their defense of that possession against the demands of law is highly deleterious to the legitimacy and effectiveness of both international law and institutions.

2. The Contribution of International Law and Institutions to Establishment of a World Free of Nuclear Weapons

There are two sides to any relationship, and it is worth briefly considering how international law and institutions erode reliance on nuclear weapons and facilitate a transition to a nuclear-weapons-free world.

"If states have a responsibility to protect their own populations from atrocities, why should they be able to commit or threaten to commit atrocities against the populations of other states?"

One well understood point is that as the regime of prohibition and verified elimination of chemical weapons operates and endures, an example is set for nuclear disarmament.* And the bans, though far from universal, on cluster munitions and landmines pose the question, why not nuclear weapons?

It is also the case that there is a deepening awareness of the inherent incompatibility of reliance on nuclear weapons with an ever more entrenched normative framework stressing states' responsibilities to protect their populations against atrocities and to comply with international humanitarian law, the Rome Statute, human rights law, and the UN Charter. If states have a responsibility to protect their own populations from atrocities, why should they be able to commit or threaten to commit atrocities against the populations of other states? The Red Cross has played an important recent role in focusing normative attention on nuclear weapons and calling for their abolition, especially through an April 2010 speech by the ICRC President, Jacob Kallenberg,⁹ and a November 2011 resolution of the Red Cross/Red Crescent Movement.

Though its documents are adopted on a consensus basis and thus subject to approval by nuclear weapon states, the critique has now penetrated the NPT review process. In May 2010, the five-year NPT Review Conference for the first time expressed "deep concern at the catastrophic humanitarian consequences of any use of nuclear weapons" and reaffirmed "the need for all states at all times to comply with applicable international law, including international humanitarian law."

The NPT declaration reflects the increasing solidification of IHL at both the national and international levels. In the course of examining the application of IHL to nuclear weapons, the International Court of Justice referred to the decision of the Nuremberg International Military Tribunal.[†] That tribunal famously observed, "the very essence of the [Nuremberg] Charter is that individuals have international duties which transcend the national obligations of obedience imposed by the individual state."[‡] Since the ICJ opinion, the principle of individual responsibility has been definitively embedded in international law by the Rome Statute. IHL is also becoming more and more integrated into military operations and training, in the United States and elsewhere.¹⁰

The content of IHL has also developed since the negotiation of Protocol I and the ICJ opinion. It has now been more than three decades since Protocol I was negotiated; it now

* The Model Nuclear Weapons Convention circulated by UN Secretary-General Ban Ki-moon in 2008 to UN member states is largely based on the Chemical Weapons Convention approach. It can be found at http://inesap.org/sites/default/files/inesap_old/mNWC_2007_Unversion_English_N0821377.pdf. The model convention was developed by the International Association of Lawyers Against Nuclear Arms (IALANA), the International Physicians for the Prevention of Nuclear War, and the International Network of Engineers and Scientists Against Proliferation. The Secretary-General is on record as saying that it is a "good starting point" for negotiations. UN Secretary-General address, "The United Nations and Security in a Nuclear-Weapon-Free World," October 24, 2008, East-West Institute conference, "Seizing the Moment," United Nations. <http://www.un.org/News/Press/docs/2008/sgsm11881.doc.htm>

For an argument that there is a legal obligation under the Nuclear Non-Proliferation Treaty and other international law to commence multilateral negotiations on a nuclear weapons convention, see IALANA and International Human Rights Clinic at Harvard Law School, *Good Faith Negotiations Leading to the Total Elimination of Nuclear Weapons: Request for an Advisory Opinion from the International Court of Justice* (2009). <http://lcnep.org/disarmament/2009.07.ICJbooklet.pdf> In that publication, the two organizations propose that the General Assembly request an advisory opinion from the ICJ on the legal requirements for compliance with the nuclear disarmament obligation.

† Nuclear Weapons Advisory Opinion, ¶ 80.

‡ *Judgment of 1 October 1946, in The Trial of German Major War Criminals: Proceedings of the International Military Tribunal sitting at Nuremberg, Germany, Part 22 (22 August 1946 to 1 October 1946): 447.*

has 172 parties. Rules it set forth, if not customary at the time, could have become so in view of state practice since then. In a major 2005 study, *Customary International Humanitarian Law*, the ICRC found the following rule, drawn from Protocol I, to be customary: the prohibition of attacks “of a nature to strike military objectives and civilians or civilian objects without distinction,” including those “which employ a method or means of combat the effects of which cannot be limited as required by international humanitarian law.”¹¹ While it is known as the guardian of IHL, the ICRC does not have the last word. Nonetheless, while nuclear powers could dispute the customary status of that and other specific rules prohibiting indiscriminate attacks at the time Protocol I was negotiated or when the ICJ opinion was released, that stance increasingly loses credibility.

The ICJ did not pass upon the customary status of the Protocol I prohibition of causing widespread, severe, and long-term damage to the environment, and the United States and United Kingdom when Protocol I was negotiated considered it a “new” rule not applicable to nuclear weapons. But the ICRC study found that this rule has become customary in nature in view of state practice, including US statements in non-nuclear contexts.¹² The ICJ also did not squarely address the lawfulness of reprisals. Here the ICRC study finds that in view of state adherence to Protocol I and other treaties, other state practice, and decisions of the International Tribunal for the Former Yugoslavia citing the imperatives of conscience and humanity, “there appears, at a minimum, to exist a trend” toward acknowledgement of the customary nature of the Protocol I prohibition of reprisals against civilians.¹³

The Vancouver Declaration, “Law’s Imperative for the Urgent Achievement of a Nuclear-Weapon-Free World,” draws on these developments in articulating the current application of IHL to nuclear weapons.¹⁴ Initiated by civil society and released in 2011, it was endorsed by many eminent international lawyers as well as leading former diplomats and officials.* It states that due to their uncontrollable effects nuclear weapons cannot be used in compliance with the above-mentioned and other rules protecting civilians, neutral states, and the environment against the effects of warfare. Regarding reprisals, it makes the judgment that law can now join with conscience to condemn them, stating:

Use of nuclear weapons in response to a prior nuclear attack cannot be justified as a reprisal. The immunity of non-combatants to attack in all circumstances is codified in widely ratified Geneva treaty law and in the Rome Statute of the International Criminal Court, which provides inter alia that an attack directed against a civilian population is a crime against humanity.

IHL is rooted in what the ICJ called “elementary considerations of humanity,”† and its rules apply to all states. It therefore is a solid foundation for the emerging norm of non-use of nuclear weapons‡ and for building a legal framework for a nuclear-weapons-free world that is universal in its approach. While foreclosure of rebuilding nuclear weapons could not be gua-

* The declaration was developed by the International Association of Lawyers Against Nuclear Arms and The Simons Foundation with the input of a conference held in Vancouver with the participation of international lawyers, ICRC representatives, and representatives of Austria, Switzerland, and Norway. A full list of signatories is available at <http://www.lcnep.org/wcourt/Feb2011VancouverConference/signatories32211.pdf>. The author was one of the drafters.

† Nuclear Weapons Advisory Opinion, ¶ 79.

‡ Under the Obama administration, the United States is at least rhetorically contributing to establishment of a norm of non-use. The 2010 US Nuclear Posture Review Report states (p. ix): “It is in the U.S. interest and that of all other nations that the nearly 65-year record of nuclear non-use be extended forever.” That statement was reinforced later in 2010 when President Obama and Prime Minister Singh jointly stated their support for “strengthening the six decade-old international norm of non-use of nuclear weapons.” Joint Statement by President Obama and Prime Minister Singh of India, November 19, 2010. <http://www.whitehouse.gov/the-press-office/2010/11/08/joint-statement-president-obama-and-prime-minister-singh-india>

ranted until norms and institutions had become irreversibly established, such a world will have the great advantage of eliminating the terrifying risks posed by the current and ongoing deployment of nuclear forces. With one rule of non-possession for all, it will also be far more conducive than our present world of nuclear haves and have-nots to the development of a just and legitimate system of international law and institutions, which in turn will reinforce the durability of abolition of nuclear weapons.

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11. Jean-Marie Henckaerts and Louise Doswald-Beck, International Committee of the Red Cross, *Customary Humanitarian International Law Vol. I* (Cambridge: Cambridge University Press, 2009), 40. <http://www.icrc.org/eng/resources/documents/publication/pcustom.htm>
12. *Id.* at 151-155.
13. *Id.* at 520-523; quotation at 523. See also Charles J. Moxley, Jr., John Burroughs, and Jonathan Granoff, "Nuclear Weapons and Compliance with International Humanitarian Law and the Nuclear Non-Proliferation Treaty," *Fordham International Law Journal* 34, no. 4 (2011): 661-667. <http://lcn.org/wcourt/Fordhamfinaljoint.pdf>
14. See <http://www.lcn.org/wcourt/Feb2011VancouverConference/vancouverdeclaration.pdf> For commentary, see John Burroughs, "The Vancouver Declaration and the Humanitarian Imperative for Nuclear Disarmament" *Nuclear Abolition Forum* no. 1 (2011): 1-6 <http://www.abolitionforum.org/site/wp-content/uploads/2012/01/NAF-First-issue.online-version.pdf>

Re-examining the 1996 ICJ Advisory Opinion: Concerning the Legality of Nuclear Weapons

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Abstract

The primary objections raised against total elimination of nuclear weapons are built around a few arguments mostly of non-technical nature.

Nuclear weapons and the strategies for their use have resulted in the establishment of a vicious circle within which the international community is trapped.

The argument that the world will be unsafe without nuclear weapons is only meant to further the narrow self-interest of the nuclear weapon states and their allies.

The World Court's far-reaching 1996 advisory opinion concluded that almost any use or threat of use of nuclear weapons would violate international humanitarian law and law applicable in armed conflict, undermining most claims of nuclear weapon states regarding the legitimacy of possession, use or threat of use of nuclear weapons. The next logical step would be an initiative for a nuclear convention banning the use and threat of use of nuclear weapons in Asia and the adjoining oceans. But as long as the dominant elites in society and the nation-state believe in the utility of nuclear weapons for national security or as the currency of power, abolition of nuclear weapons will remain a mirage.

Although in recent years President Obama and some of the leading Cold Warriors have taken up the cause of nuclear disarmament, we must clarify two points: (i) that disarmament means different things to different people, and (ii) the sudden affection for nuclear disarmament appears to have been a ruse in order to present a rosy picture at the NPT Review Conference in May 2010. Actually, no progress had been made in the previous ten years to move toward inalienable commitments given during the Review conference in 2000. The primary objections raised against total elimination of nuclear weapons are built around a few arguments mostly of non-technical nature. *Cold War, for example, used to be cited as a justification for nuclear weapons*, but it has been more than two decades since the Cold War ended. On the other hand, nuclear weapons are justified and retained by the nuclear weapon states on the grounds that *there is no Cold War now* and uncertainty caused by this factor is sought to justify retaining them!

The problem is that nuclear weapons and the strategies for their use have resulted in the establishment of a vicious circle within which the international community is trapped. This

has been appropriately summed up by William Arkin in the following terms:¹

What are the targets of nuclear weapons?

– *Nuclear weapons.*

What provocation could bring about the use of nuclear weapons?

– *Nuclear weapons.*

What is the defence against nuclear weapons?

– *Nuclear weapons.*

How do we prevent the use of nuclear weapons?

– *By threatening to use Nuclear weapons.*

Why can't nuclear weapons be abolished?

– *Nuclear weapons.*

To this can be added one more question: what is the strongest incentive to nuclear proliferation?

– *Nuclear weapons.*

Four years after the end of the Cold War in 1993, the CSIS Nuclear Strategy Study Group (in USA) had concluded that “there is no consensus, nor any immediate prospect of one, that total and complete disarmament will under any circumstances, be a feasible proposition”.² The report, however, went on to state that “it would be a tragedy if the present momentum toward international co-operation and disarmament passed without some attempt to establish a more robust nuclear end-state whose practical effect is virtually to eliminate the risk that nuclear weapons will be used”. The permanent extension of the NPT (Non-Proliferation Treaty) in May 1995 without any unambiguous, leave alone binding, commitment to nuclear disarmament only reinforced the concerns that nuclear disarmament was not likely to be pursued by the weapon states in any meaningful way in the foreseeable future.

“The argument that the world will be unsafe without nuclear weapons is only meant to further the narrow self-interest of the nuclear weapon states and their allies.”

On the other hand, some new voices also emerged since then to join the international community in demanding total elimination of nuclear weapons. China, unlike Russia, still supports the elimination of nuclear weapons, and has been seeking a no-first-use treaty among the weapon states. The argument that the world will be unsafe without nuclear weapons is only meant to further the narrow self-interest of the nuclear weapon states and their allies. Competent people like former US defence secretary and senior military commanders in the report of the committee chaired by General Andrew Goodpaster have already argued that *US security will be enhanced* with total elimination of nuclear weapons.³ They have recommended a phased programme of disarmament that could be achieved in a couple of decades. Australian Prime Minister Mr. Paul Keating, while announcing the setting up of the Canberra Commission of experts to work out a plan for total elimination of nuclear weapons, had

stated that, “I believe that a world free of nuclear weapons is now feasible.”* He went on to say that, “We want the nuclear weapon states to carry out their commitments to the elimination of their nuclear stockpiles by adopting a systematic process to achieve that result.”

Perhaps the most significant step to devalue and eliminate nuclear weapons was the referral by the UN General Assembly to the International Court of Justice at The Hague. As the Cold War ended, non-governmental organisations, especially the prestigious IPPNW (International Physicians for the Prevention of Nuclear War) and IALANA (International Association of Lawyers Against Nuclear Arms), proposed on 3rd September, 1993[†] that the World Health Organisation (WHO) Assembly seek from the International Court of Justice (ICJ, Generally referred to as the World Court) an advisory opinion on the question:

“In view of the health and environmental effects, would the use of nuclear weapons by a state in war or other armed conflict be a breach of its obligations under international law including the WHO Constitution?”

The ICJ considered WHO’s request and sought written submissions. After considering the case, the Court refused to give any advisory opinion on the WHO question on the grounds that the question did not fall within the scope of WHO’s activities as is required by Article 96(2) of the UN Charter.[‡] Meanwhile, the UN General Assembly adopted a resolution A/RES/49/75K on 15th December, 1994 (by 78 states voting in favour, 43 against, 38 abstaining and 26 not voting) which asked the ICJ to render its advisory opinion urgently on the following question:[§]

“Is the threat or use of nuclear weapons in any circumstances permitted under international law?”

While the resolution was instigated by NAM (Non-Aligned Movement), as may be seen, the voting pattern did not reflect a cohesive NAM position and actually showed the post-Cold War international order and perceived national interests of various countries. Of the five acknowledged nuclear weapons states, only China did not participate in the voting. The Resolution was submitted to the Court on 18th December, 1994. A total of 42 states (including India) provided written submissions to the Court and participated in the proceedings. Twenty states participated in oral hearings which were held during October-November 1995. The ICJ ultimately rendered its opinion on 8th July, 1996. The 15 judges of the ICJ decided that the Court was not able to give an advisory opinion requested by WHO. The reason rested on the fact that questions of use of force etc. were beyond the scope of specialised agencies like the WHO and hence, the Court confined its opinion to the UN General Assembly request.

The Opinion of the ICJ may be summarised as follows:

1. The threat or use of nuclear weapons is generally contrary to International Humanitarian Law (Opinion, para 105D). There are no international agreements banning them as nuclear weapons. However, the Court confirmed unanimously that their threat or use, just like other weapons, must comply with International Humanitarian Law and

*Speech given by P.J. Keating, Prime Minister of Australia on the 50th Anniversary of the United Nations, October 24, 1995.

[†]“ICJ Press Release on the Legality of the Use by a State of Nuclear Weapons in Armed Conflict” General List No. 93 (1993-1996).

[‡]ICJ Press release on the Legality of the threat or use of nuclear weapons – ICJ Advisory Opinion, 8th July, 1996. ICJ General List No. 93.

[§]General Assembly Resolution 49/75 K, Request for an advisory opinion from the International Court of Justice on the legality of the threat or use of nuclear weapons.

be judged according to their effects and the circumstance of their use (Opinion, para 86, 105, 2D). Weapons which do not distinguish between civilian and military targets would be unlawful.

2. To threaten anything illegal is itself illegal (Opinion, para 47). Possession and deployment of a weapon with the stated intention of its use under certain circumstances would constitute an illegal threat if the purpose of its use would inevitably violate the principles of necessity and proportionality (Opinion, para 48).
3. Proportionality includes the requirement that even if a nuclear response were proportionate to a threat or attack, it would still have to meet the requirement of humanitarian law (Opinion, para 42).
4. The Court said that “the use of such (nuclear) weapons is in fact scarcely reconcilable with respect for such requirement” (Opinion para 95) and noted that no state making submissions to the Court provided a plausible scenario in which the use of nuclear weapons would be lawful (Opinion, para 94).
5. The Court could not decide whether threat or use of nuclear weapons by a state would be lawful if its “very survival would be at stake” (Opinion para 97) because it did not have sufficient detailed information before it abutted the precise circumstances of such an event (Opinion, para 95), but the President of the Court said that this “*cannot in any way be interpreted as a half-open door to the recognition of the legality of the threat or use of nuclear weapons*” (Judge Bedjaoui, Separate Statement, para 11).
6. The restrictions imposed by the International Humanitarian Law are intransgressible. This means that it applies in all circumstances, even if the very survival of a state would be at stake (Opinion, para 79).
7. The Court unanimously decided that **“there exists an obligation to pursue in good faith and bring to a conclusion negotiations leading to nuclear disarmament in all its aspect under strict and effective international control”** (Opinion, para 105F).

The World Court has relied heavily on humanitarian laws and conventions in coming to its conclusions. This is as it should be. But the international community has been prompt in ignoring this linkage. As it is, an international community that places a heavy emphasis on humanitarian issues and the rule of law must act to remove the basic lacunae in its approach to nuclear weapons. For example, numerous conventions and agreements have come into being to ban even conventional weapons which lead to serious debilitating effects and violate the dignity and life of people.

While the World Court judgement does not go far enough for all those seeking elimination of nuclear weapons, it, nevertheless, contains far-reaching conclusions. Firstly, the Court has unanimously ruled that “*there is in neither customary nor conventional international law any specific authorization of the threat and use of nuclear weapons*”. This is an important opinion which naturally requires legislating an appropriate law. It is ironic — or rather tragic — that the international community has obtained a convention to outlaw landmines but seems to be unwilling to move toward a similar convention governing nuclear weapons which would, at the very minimum, create norms and inhibitions against the use of nuclear

weapons. The ruling also clearly knocks down the claim of nuclear weapon states that their possession and use or threat of use of such weapons are legitimate. It is obvious that such claims by nuclear weapon states are a reflection only of a cynical exercise of power rather than any regard for such norms. At the same time, in an 11:3 judgement it also ruled that there is no “comprehensive and universal prohibition of the threat and use of nuclear weapons as such” in international law. The UN General Assembly should have forecast this ruling. For an action to be declared as illegal, it is obvious that there must be a law, customary or statutory, which prohibits such actions. Use of poison was considered illegal for a long time, and a specific prohibition against its use was instituted by the international community through the 1925 Geneva Convention.

The World Court, in a 7:7 vote with the President casting the deciding vote, also ruled that “the threat and use of nuclear weapons would generally be contrary to the rules of international law applicable in armed conflict, and in particular the principles and rules of humanitarian law”. At the same time, the Court ruled that “in view of the current state of international law”, (essentially the absence of specific law) the Court “cannot conclude definitely whether the threat or use of nuclear weapons would be lawful or unlawful in an extreme circumstance of self-defence, in which the very survival of a State would be at stake”. This raises two issues. First, there is an over-riding necessity of a global convention to ban the threat and use of nuclear weapons. Second, since all nuclear weapon states are unlikely to agree to such a convention, (for example, the United States joined the 1925 Geneva Convention banning the use of chemical weapons only in 1975) states could be authorised to keep their weapons and their use could be clearly circumscribed in the case of self defence when the survival of the state is threatened by nuclear weapons.

The World Court judgement, read in its totality, clearly emphasises the need for properly framed and instituted laws to prohibit the use and threat of nuclear weapons. One can argue that nuclear weapons, even when present in quantities exceeding 65,000 warheads at one time, have not been used since the atomic bombings of Hiroshima and Nagasaki in 1945. One can argue that non-use has become the norm over the past seven decades. But, while this norm needs to be made more permanent, non-use would give a false sense of success since it hides the reality of nuclear threats being held out and readiness levels being enhanced in over 56 crises since 1946. Any one of them could well have resulted in actual use of nuclear weapons. The Cuban missile crisis was an important benchmark in highlighting how close the world came to extensive use of large arsenals of the superpowers. There are also numerous instances when accidental use was stopped just in time. It is debatable whether we rely on the norm of seven decades of non-use as a valid substitute for legal framework to control the threat and use of nuclear weapons.

Nuclear weapon states and their allies relying on such weapons may be expected to oppose the institution of such legal norms and laws as their submissions at the World Court also indicated. But they are increasingly being forced to accept through protocols, a prohibition to use or threat of use of nuclear weapons in an enlarging portion of the globe falling within nuclear-weapon-free zones. At the same time it is necessary to recall that an overwhelming majority of states have been voting for a convention to outlaw the threat and use of nuclear weapons. India had been in the forefront of moving such a resolution at the UN year after year since 1978. In fact, it is most unfortunate that support for such a resolution declined after the

end of the Cold War. As long as nuclear weapons remain and are seen as legitimate, India will continue to face the dilemma of working to achieve global zero while keeping its option open and retaining its weapons for self-defence. The logical step required is to resurrect this resolution at the forthcoming session of the UN General Assembly and generate maximum support for it. Meanwhile, since most of the Asian countries have supported the concept so far, they should take the initiative for a nuclear convention banning the use and threat of use of nuclear weapons in Asia and the adjoining oceans.

“As long as the dominant elites in society and the nation-state believe in the utility of nuclear weapons for national security or as the currency of power, abolition of nuclear weapons would remain a mirage.”

Creating a Legal Norm

Even a brief study of human history would clearly indicate that all major changes affecting human behaviour have come about on the basis of change in ideas and belief systems prevalent at that point in history. The easiest example that comes to mind is the abolition of slavery. There is no doubt that a civil war became the vehicle of that change. But other changes like the demise of apartheid in South Africa or untouchability in India came about through changes in prevailing beliefs and ideas, no doubt propelled by humanitarian statesmen. Unfortunately, most attempts and draft conventions to eliminate nuclear weapons ignore this crucial element. As long as the dominant elites in society and the nation-state believe in the utility of nuclear weapons for national security or as the currency of power, abolition of nuclear weapons would remain a mirage. No amount of extremely well argued and apparently unbeatable draft proposals stands any chance of success as long as the dominant ideas actually perceive an advantage whether for deterrence of other countries or compellence or even simply because others have it and hence hope to change their relative place in international hierarchy.

The above conclusions are based on the simple but horrifying reality that nuclear weapons possess enormously high levels of extremely lethal and destructive power. Link that with the stark fact that the modern world, in spite of exponential advances in technology, has not been able to find any credible defence against such weapons. These two factors provide nuclear weapons with the power unmatched by any other weapon. Some people may point to the development and deployment of BMD (Ballistic Missile Defence). But that would be ignoring what is obvious: that BMD may provide defence against incoming missiles, the delivery system for nuclear weapons, but it leaves out other means and methods of delivering nuclear weapons.

Doctrinal changes in the use and utility of nuclear weapons are another aspect of the process of de-legitimation. There is an urgent need for a binding political agreement among the eight declared/undeclared nuclear weapon states (five weapon states, and India, Pakistan and Israel) not to be the first to use nuclear weapons/capabilities. Of these, China and India have always supported the concept of no-first-use pledge. The Soviet Union used to support the concept also, but the Russian Federation has moved away from that position. However, it is not an absolutist shift. In late 1990s, Russia and China agreed to a bilateral no-first-use (of nuclear weapons) commitment within a broader non-aggression pact. In a profound change

from its earlier position, NATO adopted the position in July 1990 that nuclear weapons were “truly weapons of last resort.” It is significant that even in Pakistan, which used to thump its chest and threaten using the nuclear weapons first and at an early stage in an armed conflict, some of the leading thinkers began to argue within two years in favour of a doctrine of “first, in last resort.”⁴ The new Strategic Concept adopted by NATO in November 1991 further relegated nuclear weapons to margins of NATO strategy by stating that the “circumstances in which any use of nuclear weapons might have to be contemplated” are “remote”.⁵

“Nuclear weapons must be totally eliminated from national arsenals.”

The new NATO-Russia Founding Act signed at Paris on May 27, 1997, states that “Russia and NATO do not see each other as adversaries”. President Clinton, speaking about the Charter stated that “The veil of hostility between East and West has lifted. Together we see a future of partnership too long delayed that must no longer be denied.” President Chirac of France and Chancellor Kohl of Germany endorsed these views. As early as 1993, a seminal study by eminent experts in USA concluded that “The changing political landscape in Europe has produced a strategic revolution; neither deterrence of conventional attack nor deterrence of nuclear attack any longer requires the presence of large numbers of ... nuclear weapons on the European continent.”⁶ The forecast of changes in the geo-political landscape, if anything, has been more profound and extensive than that visualised by the CSIS study. There is every reason to expect, therefore, that NATO would move at an early date from its current “last resort” position.

In the view of many experts, the current NATO position is well short of a no-first-use commitment. But if more recent developments are any indication, there is no reason why the NATO states would/should not go to fuller commitment to no-first-use at an early date. The most important development is the agreement between NATO and Russia regarding NATO expansion where, in fact, President Yeltsin made the surprise announcement that Russian nuclear weapons have been taken off their earlier mission of targeting NATO member countries. But difficulties may also arise from Israel and Pakistan not coming forth with such commitments. In that case, the agreement could be concluded among the five declared nuclear weapon states and India, while Israel and Pakistan could be invited to join at the earliest opportunity.

Two aspects need consideration: one concerns the “no-first-use” concept and commitment, and the other relates to the principle of proportionality, even in circumstances where the Court has been undecided, that is, in self-defence under specific circumstances related to the survival of the State. The first should be seen in the context of the Court’s opinion that there is no specific law either authorising or prohibiting use and threat of nuclear weapons. Till the issue of such a law is settled, use and threat of nuclear weapons would continue to be generally inconsistent with law. This should place an obligation on all countries to adapt nuclear doctrines now in consonance with the World Court ruling. There can be no reasonable situation where threat of use of nuclear weapons would be justified for self-defence. But such a threat exists in the very possession of nuclear weapons themselves. The implication, therefore, is that nuclear weapons must be totally eliminated from national arsenals.

Although the Court has not specified the particular circumstances under which threat and use of nuclear weapons might be justifiable when the very survival of the State is in question, the principle of proportionality would require that even under these circumstances, nuclear weapons can be considered legal only in extreme situations if the survival of the State is threatened by the nuclear weapons of other states. The effects of use of nuclear weapons extend beyond territorial limits of a state. The matter of use under extreme circumstances of protecting the survival of the State has to take this into account. The logic which has sought to justify possession and use of nuclear weapons against superior conventional forces, as by NATO for four decades and Pakistan in justifying its weapons programme, cannot remain valid in terms of the principle of proportionality. The final assurance of the survival of the state has to be provided by the international community, in particular by the UN, whose primary responsibility is to ensure international peace and security. At the same time, the World Court ruling has also made it clear that the definition, rights, and limits of action for self-defence will require elaboration and acceptance by the international community. The Secretary General should ensure movement toward this direction.

The Court has also ruled that the international community, especially the five nuclear weapon states, have not only an obligation to negotiate (in good faith) a treaty for total nuclear disarmament, but also have an obligation to conclude such a treaty. It may be recalled that in the run up to the permanent extension of the NPT, many experts and diplomats, in particular British, had been arguing that Article VI of the NPT imposes only an obligation to negotiate, but does not actually require conclusion of such a treaty! We may expect that the nuclear weapon states (and their allies under nuclear umbrellas) will cynically disregard the ruling of the World Court as they have been doing all along in their pursuit of nuclear hegemony. But the remaining 150 or so countries also bear a responsibility to keep nudging the recalcitrant states into implementing their commitments to disarm.

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Notes

1. William Arkin, "The bomb has many friends," *The Bulletin of Atomic Scientists* (1997): 37-39.
2. *Toward A Nuclear Peace: The future of nuclear weapons in US foreign and defense policy* (Washington D.C.: CSIS Nuclear Strategy Study Group Centre for Strategic and International Studies, 1993), 67.
3. *An Evolving US Nuclear Posture*, Second Report of the Steering Committee, Project on Eliminating Weapons of Mass Destruction (Washington D.C.: Henry L. Stimson Centre, 1995).
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5. *Toward A Nuclear Peace*, CSIS Nuclear Strategy Study Group Report, 27.
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India's Disarmament Initiative 1988: Continuing Relevance, Valid Pointers for an NFWW

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Abstract

The run up to the NPT Review Conference in 2010 brought nuclear disarmament into focus. Transitory though this trend turned out to be, it nevertheless became a trigger for India to re-examine its own position on disarmament. In order to take a considered view on the subject, Prime Minister Manmohan Singh instituted an Informal Group in October 2010 with the specific mandate to examine the relevance of the Action Plan that had been presented by Rajiv Gandhi in 1988. Were there any specific elements of that plan that were worth pursuing in the new security environment? What role could and should India play as a state with nuclear weapons in the pursuit of disarmament? Should India make the drive towards universal nuclear disarmament a priority in its diplomatic initiatives? Did India have the moral standing to do so after she herself had acquired the weapon? Has anything changed in the international climate to suggest that the Indian lead would attract like-minded nations? How should India approach other nations on this issue? These were some of the questions that the Informal Group considered before presenting its report to the Prime Minister in August 2011. It firmly conveyed the conviction that "India can and must play an effective and credible role as the leader of a campaign for the goal of universal nuclear disarmament, both because India can bring to the campaign its moral strength deriving from six decades of consistently campaigning for nuclear disarmament but also now the weight of its growing presence in the international system."

For six and a half long decades now India has been at the forefront of efforts for universal nuclear disarmament. During this period, it has introduced many resolutions — some uninterruptedly for at least three decades — at the United Nations General Assembly, and presented possible steps to get to disarmament. The most comprehensive of these was the Action Plan for a Nuclear-Weapon-Free and Non-violent World Order presented in 1988 by the then Indian Prime Minister Rajiv Gandhi to the Third Special Session on Disarmament of the UNGA. The idea however proved to be ahead of its time and did not receive the attention it deserved from the international community.

A decade later, as India found herself compelled to develop a nuclear arsenal to cater to the nuclear threat environment in her neighbourhood, the country's own focus on disarmament seemed to somewhat blur. This is not to suggest that India lost interest in a nuclear-weapons-free-world (NFWW). But that New Delhi was no longer driven to take the lead on this at the international level, nor treat it as a burning priority in its foreign policy. So, routine noises

continued to be made at international fora and resolutions that had been long presented in the United Nations General Assembly (UNGA) as a matter of habit continued to be tabled. But nothing of real significance emerged.

The situation did not change until 2006, when India submitted a Working Paper on nuclear disarmament in the First Committee of the UNGA and subsequently at the Conference on Disarmament to stimulate debate and promote consensus on the way forward. It listed seven practical measures to obtain the goal of a nuclear-weapons-free world, though the paper did not ascribe any rigid sequencing to their implementation. These included:

- Reaffirmation of the unequivocal commitment of all nuclear weapons states to the goal of complete elimination of nuclear weapons.
- Reduction of the salience of nuclear weapons in security doctrines.
- Adoption of measures by nuclear weapon states to reduce nuclear danger, including the risks of accidental use of nuclear weapons.
- Negotiation of a global agreement among nuclear weapon states on 'no first use' of nuclear weapons.
- Negotiation of a universal and legally binding agreement on non-use of nuclear weapons against non-nuclear weapon states.
- Negotiation of a convention on the complete prohibition of use or threat of use of nuclear weapons.
- Negotiation of a nuclear weapons convention prohibiting the development, production, stockpiling and use of nuclear weapons, and on their destruction, leading to the global, non-discriminatory and verifiable elimination of nuclear weapons with a specified time frame.

While this Working Paper did not receive much traction in the Conference on Disarmament (CD), deadlocked as it then was and has been since on the issue of the Fissile Material Cut-off Treaty, the overall subject of nuclear disarmament did appear to have become fashionable after the four American Cold Warriors, George Shultz, William Perry, Henry Kissinger, and Sam Nunn wrote two opinion pieces in the *Wall Street Journal* in 2007 and 2008 lending their voice to nuclear disarmament.^{1,2} This set into motion a spate of efforts at the governmental and non-governmental level with many new reports and road maps being drafted to achieve the elimination of nuclear weapons.* In fact, in the three years immediately preceding the NPT Review Conference in 2010, there was a near frenzy of writings and seminars on the desirability and feasibility of a world free of nuclear weapons. As expected, much of the noise subsided after May 2010.

This international focus on nuclear disarmament, transitory though it turned out to be, nevertheless became a trigger for India to re-examine its own position on disarmament. In order to take a considered view on the subject, Prime Minister Manmohan Singh instituted

*Some notable initiatives include the speech made by President Obama in Prague in April 2009 where he committed the US for the first time to the pursuit of nuclear disarmament; the Report entitled "Eliminating Nuclear Threats" prepared by the International Commission on Non-proliferation and Disarmament; the UK-Norway experiment on verifiable disarmament; and the many conferences organized by Global Zero.

an Informal Group* in October 2010 with the specific mandate to examine the relevance of the Action Plan that had been presented by Rajiv Gandhi in 1988. Were there any specific elements of that plan that were worth pursuing in the new security environment? What role could and should India play as a state with nuclear weapons in the pursuit of disarmament? Should India make the drive towards universal nuclear disarmament a priority in its diplomatic initiatives? Did India have the moral standing to do so after she herself acquired the weapon? Has anything changed in the international climate to suggest that the Indian lead would attract like-minded nations and gather a momentum? How should India approach other nations on this issue?

These were some of the questions that the Informal Group considered over many meetings, among themselves and with other experts on the subject. Finally, ten months after it had been instituted, the Informal Group presented its report to the Prime Minister in August 2011. It firmly conveyed the conviction that “*India can and must play an effective and credible role as the leader of a campaign for the goal of universal nuclear disarmament*, both because India can bring to the campaign its moral strength deriving from six decades of consistently campaigning for nuclear disarmament but also now the weight of its growing presence in the international system.”† Some of the major findings and recommendations of the report are summarised in the following sections.

1. Findings of the Informal Group

Contemporary nuclear challenges underscore the need for nuclear disarmament — The world today is grappling with the challenge of establishing strategic stability in a multi-nuclear world. This is not an easy proposition since multiple nuclear relations between two or more countries, each with its unique nature of deterrence, pose challenges not experienced during the bipolar nuclear world of the Cold War. To complicate matters further, the parameters of rationality of all the nuclear players cannot be expected to be the same. During the Cold War, the two superpowers had learnt to evolve a set of rules that brought a modicum of predictability and hence stability to the nuclear game. Some of the new nuclear players, however, believe in generating instability as a means of establishing deterrence. Therefore, as more countries join in, the complexities can only increase. And, in a crowded nuclear street, one can only hope that each has an equally effective control over its nuclear assets so as to minimise existential risks of inadvertent or unauthorised use of nuclear weapons.

At the same time, the non-state actor also threatens to gatecrash into the nuclear pen. Al Qaeda is well known for its desire to acquire nuclear weapons and if that were to happen, classical nuclear deterrence would not be able to avert the use of the weapon. In that unfortunate situation, the immediate physical damage that would result from such use would be equally matched by the breach of the psychological norm or taboo against the use of the nuclear weapon that is presently in place.

It was the realisation of this heightened risk from nuclear weapons that made President Obama begin to look at these weapons more as a liability than an asset. His personal com-

*The Group was instituted under the chairmanship of Mr. Mani Shankar Aiyar, honourable Member of Parliament. The members included Cmde Uday Bhaskar (later Adm Ramdas joined in his place), Amb Satish Chandra, Mr. Arvind Gupta, Amb Saurabh Kumar, Prof. Amitabh Mattoo, Dr. Manpreet Sethi, and Mr. Siddharth Varadarajan.

†Emphasis added. Full text of the report is available on the Indian Pugwash Society website.

mitment to the cause of nuclear elimination has already won him the Nobel Peace Prize, but unfortunately he has not yet been able to get his administration to take any meaningful steps in this direction. In case Obama returns to the White House in 2013, it could provide a window of opportunity to push some meaningful measures in this direction.

Changed Indian position strengthens her ability to push for disarmament

— As a state with nuclear weapons, India brings greater credibility to her call for the elimination of nuclear weapons. When the country made this case before 1998 when she did not have the weapons, it was dismissed as a case of sour grapes, where India did not have the weapon and did not want others to have it either. But as a nuclear-armed state, India brings to the table her commitment to remove these weapons from her own arsenal and this lends sincerity to her demand for disarmament.

India's case for NFWF is based on the logic of her national security — For India, the imperative of nuclear disarmament arises from the fact that the weapons with the adversaries pose a threat to the nation in more ways than one. Pakistan uses her nuclear weapons as a shield to carry out her policy of terrorism and thereby bleed India through a thousand cuts. The projection of a low nuclear threshold by Pakistan checkmates India's conventional military. Meanwhile, China's rapid nuclear modernisation carries the danger of subjecting India to nuclear blackmail or coercion, especially since the territorial disputes between the two are yet to be resolved. Though India's nuclear weapons do provide nuclear deterrence, the existential risks of an inadvertent nuclear exchange as a result of a miscalculation or an unauthorised launch cannot be ruled out. Therefore, India's security is best found in a situation where neither of her adversaries is armed with nuclear weapons. And this can only come about as a process of universal nuclear disarmament.

"Only if nuclear disarmament is either the result of or results in more cooperative and secure inter-state relations, will countries not feel the need to move towards building other weapons to compensate for the perceived loss of security."

Principles of the 1988 Action Plan Still Valid — The Action Plan presented by India in 1988 was premised on some basic principles that still remain valid for the realisation of an NFWF. Five of these can be identified — *Universality*, since in order to be viable and sustainable, nuclear disarmament must necessarily be equally applicable to all. Each country that has nuclear weapons or the capability to build them has to accept the obligation to eliminate its stockpile, while those that are non-nuclear have to commit themselves to remaining so; *Non-discrimination*, since uniformity of commitments to uniformly applicable verification procedures and a singular standard of compliance is critical; *Verifiability*, since only this

can promise transparency in the process to foster confidence amongst states to stick to their pledges. While it is true that the scope of verification measures may need to be different for possessors and non-possessors of nuclear weapons, both intrusiveness and stringency must be equal in principle, theory and practice; *Simultaneity of collateral measures traversing security issues other than nuclear*, such as confidence building in areas of conventional forces, international treaty on prohibition of weaponisation of outer space, or getting the United Nations to evolve by consensus a new strategic doctrine of non-provocative defence. Only if nuclear disarmament is either the result of or results in more cooperative and secure inter-state relations, will countries not feel the need to move towards building other weapons to compensate for the perceived loss of security; *Tolerance and acceptance*, since the new world order will have to be based on “respect for various ideologies, on the right to pursue different socio-economic systems, and the celebration of diversity.” *Cooperative security*, in place of the current competitive security, is needed to meet not only the requirement of nuclear disarmament but also the many challenges of the 21st century. An indication of this understanding can be found in the UN Security Council Resolution 1887, adopted on 24 September 2009 under the chairmanship of President Obama. It established a linkage between nuclear disarmament and the promotion of international stability, peace and security premised on “the principle of increased and undiminished security for all.”

Non-proliferation is not a substitute for disarmament — In fact, non-proliferation is not sustainable without disarmament. It is the failure to recognise the symbiotic relationship between the two that has created the biggest weakness for the non-proliferation regime. As long as the nuclear weapon states continue to retain their nuclear arsenals, it would be impossible to get the NNWS to remain committed to their promises of non-proliferation.

2. Recommendations of the Informal Group

Bring back the focus on universal nuclear disarmament at the national and international levels — For all the reasons cited in the above section, the report recommends that India should make all attempts to bring back and retain the focus on nuclear disarmament. The report suggests a need for efforts to be made at both the national and international levels to generate an awareness of the inherent dangers of nuclear weapons. In fact, the need for building a national consensus on the very issue of whether India should take the lead in pushing the world towards disarmament came out clearly when in August 2012 at a National Outreach Conference held in New Delhi which saw the participation of some 1200 students, many linked India’s nuclear weapons with national status and security and argued against India making any efforts to give them up. Therefore, it is clear that public awareness on the limited value of nuclear weapons for India’s security or status and the fact that they have rather complicated security challenges will have to be built. At the same time, efforts at the international level are also necessary to raise the public’s awareness of nuclear dangers since these pretty much disappeared with the end of the Cold War. Unless people everywhere become aware of the dangers palpably, they are unlikely to push their leaders to change policies. It was with this belief that the Group recommended a return of focus to the issue of nuclear disarmament.

Use strategic partnerships to push a bilateral dialogue on nuclear disarmament — Given that India has a strategic dialogue with nearly every major nation today, the report recom-

mends that the subject of disarmament be included in the bilateral agenda as part of the ongoing diplomatic discussions. This would help India get a sense of how much attention and priority other countries are willing to invest in the subject. Accordingly then, India could decide on the timing, manner and scope of multilateral engagement on nuclear weapons elimination. This approach was preferred to one where India could offer another proposal/road map at the UNGA or other multilateral forum, without testing the waters first. Unlike the situation in 1988, the current climate finds India better placed to approach the countries bilaterally and judge their reactions in order to anticipate probable hurdles to the exercise.

Build concentric circles of concurrence — Besides engaging bilaterally with nations, the report also urges India to use opportunities where they exist to build upon steps that might create the right conditions for nuclear disarmament. For example, the focus that the NPT Review Conference 2010, the Non-Aligned Movement and other groups like the New Agenda Coalition have brought to an issue like negative security assurances could be used to push the proposal for a treaty on the subject. It may be recalled that negotiation of a universal and legally binding agreement on non-use of nuclear weapons against non-nuclear weapon states is one of the seven steps that India had proposed in its Working Paper in 2006. Similar avenues of common ground could be found to build concentric circles of concurrence that might eventually enable the creation of an NWFV.

Undertake outreach conferences within India to explain the dangers of nuclear weapons and consequences of a nuclear exchange — It has been proved by scientific studies that any deliberate nuclear exchange even with low kiloton yields of the Hiroshima and Nagasaki variety will have repercussions that go beyond national and regional boundaries. During the height of the Cold War, an exchange between the US and USSR was calculated to cause a severe nuclear winter whose effects would have impacted the world. With the reduction in numbers, this fear might have dissipated a bit, but it has certainly not gone away. Rather, with the spread of nuclear weapons into more states, the dangers can only multiply.

But the public in India, Pakistan and China is insufficiently educated on the possible consequences of a nuclear conflict. None of the nations have brought out any official studies providing estimates of the likely deaths and destruction levels that a nuclear exchange could cause in areas as densely populated as these three countries are. The report, therefore, recommends that greater discussion and awareness on this dimension of the nuclear weapon would not only go towards enhancing deterrence but also prepare public opinion on nuclear disarmament.

“Efforts at moving towards a nuclear-weapons-free world must include measures that help to build a positive overall atmosphere. Hence the need for steps such as legally binding and universally applicable negative security assurances, universal no first use commitments, and a ban on the use or threat of use of nuclear weapons.”

Identify measures that set the stage for nuclear disarmament — Elimination of nuclear weapons cannot be conducted in isolation or alienated from some parallel collateral mea-

asures that must simultaneously seek to reshape the premise and architecture of international security. Efforts at moving towards a nuclear-weapons-free world must include measures that help to build a positive overall atmosphere. Hence the need for steps such as legally binding and universally applicable negative security assurances, universal no first use commitments, and a ban on the use or threat of use of nuclear weapons. Measures such as these would substantially alter threat perceptions and reduce the salience of nuclear weapons, thus creating the constructive framework within which countries will find it easier to enter into meaningful nuclear weapons elimination engagements and negotiations.

Settle for a Time-bound but Flexible Plan — The delineation of phases or the adoption of a time-bound approach for disarmament has evoked much controversy. In the Action Plan of 1988, India had recommended a three-stage time-bound plan to get to zero nuclear weapons. The first and second phases were to last 6 years each while the final phase was to last a decade. However, over the years, many countries, such as France and Russia, have opposed the creation of ‘artificial timelines’. But the problem with no schedule is that it could remain open-ended without creating tangible benchmarks of progress. So, it would be far more helpful if some consensually agreed upon phases for implementation of steps were evolved. The timelines could be negotiated to arrive at a broad consensus, but to have no deadlines for necessary actions would be akin to having a dead plan.

3. Conclusion

In 1988 Rajiv Gandhi had said:

*Humanity is at a crossroads. One road will take us like lemmings to our suicide. That is the path indicated by doctrines of nuclear deterrence, deriving from traditional concepts of the balance of power. The other road will give us another chance. That is the path signposted by the doctrine of peaceful coexistence, deriving from the imperative values of non-violence, tolerance and compassion.**

Humanity is still poised at the same juncture today. This is both a fortunate and an unfortunate reality. It is fortunate because mankind has not yet blown itself up in a nuclear holocaust and the numbers of nuclear weapons have progressively reduced. At the same time, it is also unfortunate that humanity has not progressed down the road to a nuclear-weapons-free world. So, while the numbers may have reduced from a peak of 70,000 to about 20,000 today, the dangers from nuclear weapons remain and have only grown in dimension and become more challenging.

We inhabit today a world where far more numbers of states have nuclear weapons; where even more could be tempted to cross the threshold, thereby leaving a large tear in the non-proliferation fabric; where non-state actors are powerful enough to pose threats to state security; where the possibility of non-state actors acquiring nuclear material or weapons for terrorism, either with or without state complicity has multiplied; where inter-state relations are mired in mutual mistrust; and where the possibility of a nuclear incident – terrorist-triggered or state-sponsored – occurring somewhere in the world poses a risk. President Obama stated at the Nuclear Security Summit in April 2010, “It is an irony that while the risks of a nuclear confrontation have come down, the risks of a nuclear attack have increased.”

*n.1, p. 141

With an increase in nuclear dangers, there must be a simultaneous progression in our understanding that the only sustainable route to mitigating these dangers has to pass through a nuclear-weapons-free world. And, such a world must be built on the pillars of certain principles that promise equal, cooperative security to all.

As a state with nuclear weapons, but one that has restricted the role of its nuclear weapons to deterrence alone, which has premised its arsenal on the pillars of credible nuclear deterrence, a no first use and non-use against non-nuclear weapon states, India is already demonstrating an example of nuclear restraint and living the steps that can move the world towards nuclear elimination.

As an economic power of considerable import, India today has the ear of major international players. This provides an opportunity to push issues that could address India's security concerns too and fortunately this is equally a global challenge that is beginning to be realized. It is in this backdrop that the Informal Group found merit in re-examining the initiative of 1988 whose robustness and validity remain despite the passage of time.

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Nuclear Threats and Security

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Abstract

This article presents highlights and insights from the International Conference on "Nuclear Threats and Security" organized by the World Academy of Art and Science in association with the European Leadership Network and the Dag Hammarskjöld University College of International Relations and Diplomacy and sponsored by NATO at the Inter-University Centre, Dubrovnik on September 14-16, 2012. The conference examined important issues related to nuclear non-proliferation and disarmament, the legality of nuclear weapons and their use, illicit trade in nuclear materials, the dangers of nuclear terrorism, nuclear- and cyber-security. Papers and video recordings of the major presentations and session summaries can be found [here](#).

The opening presentations by representatives of WAAS, ELN, Pugwash, NATO and other participants sounded a common theme that reverberated throughout the conference — a shared conviction that urgent measures are needed to achieve a world without nuclear weapons. The complex international situation with respect to nuclear weapons is destabilizing and counter-productive. While nuclear weapons have virtually no conceivable military value, the status and prestige associated with their possession provide incentives for nuclear proliferation, especially by states concerned about the possibility of external intervention to bring about regime change. The prevailing nuclear paradigm subsists on the basis of deeply-seated, unsupportable misconceptions regarding the utility of nuclear weapons, their essential role in national security, their contribution to peace during the Cold War and the impossibility of eradicating them from existence. The conference strongly endorsed measures to promote objective examination and public education to remove numerous myths that undermine essential steps toward complete nuclear disarmament.

1. Nuclear Weapons in the Middle East

In recent months the drums of war have once again been beating in the Middle East. The build-up of political pressure, social unrest and open civil war in the Middle East combine to make the issue of Iran's nuclear program a dangerous knot in international relations today. The acquisition of nuclear weapons by Iran would be a major setback to peace in the Middle East and is likely to unleash further proliferation by other states. Iran has categorically denounced nuclear weapons and rejects accusations that it is trying to acquire them. However, recent disclosures by the International Atomic Energy Agency suggest that the

country is keeping its options open, although major intelligence agencies agree that Iran has made no decision to make a nuclear warhead.

Iran is a proud nation with an ancient history. Neither sanctions nor threats of physical intervention are likely to dissuade the country from exercising its legal right to develop nuclear energy under the NPT for peaceful purposes. Actual physical attack on Iran's nuclear facilities would undermine the legitimacy of the Nuclear Non-Proliferation Treaty and is likely to unleash catastrophic war in the Middle East. Positive efforts that provide a means for Iran to preserve or enhance its credibility rather than merely succumb to international pressure are far more likely to bear fruit. There is no viable alternative but to intensify efforts for mediation to enhance a peaceful resolution of this crisis.

"NATO and all nuclear weapon states must be urged to accept full responsibility for elimination of these weapons as soon as possible by adopting proactive policies and actions rather than imposing preconditions on other parties for progress on this issue so critical to the welfare of all humanity."

The creation of nuclear-weapon-free zones (NWFZs) represents an integral element in a comprehensive multi-lateral strategy for a nuclear-weapons-free world. The extension of nuclear-free zones to encompass 114 nations is a significant achievement, which can be enhanced by concerted efforts to create NWFZs in the Middle East, in the territory neighboring on the Arctic region, and elsewhere. Efforts to make the Middle East a Nuclear-Weapons-Free Zone are stymied by the high level of rhetoric and exchange of threats between Israel and Iran combined with Israel's insistence on its own right to possess a significant arsenal of nuclear weapons. This situation is too serious to be left to the foreign policy inclinations of neighboring states. The whole world has a critical stake in a peaceful resolution of tensions in the Middle East, including a complete removal of weapons of mass destruction from the region.

The Iranian problem focuses attention away from the more fundamental issue — the complete abolition of nuclear weapons from the face of the earth. NATO and all nuclear weapon states must be urged to accept full responsibility for elimination of these weapons as soon as possible by adopting proactive policies and actions rather than imposing preconditions on other parties for progress on this issue so critical to the welfare of all humanity.

2. Legality of Nuclear Weapons

At the heart of the conflict over Iran's nuclear program are the inherent inequity and hypocrisy on which the prevailing regime of non-proliferation is based. The 1996 advisory opinion of the International Court of Justice categorically affirmed the legal obligation of the nuclear weapon states to initiate and bring to a successful conclusion good faith negotiations leading to nuclear disarmament. This has not happened in spite of the conducive atmosphere that existed following the end of the Cold War. Indeed, 47 years after the signing of the NPT and 16 years since the ICJ's advisory opinion, none of the nuclear weapons states have abandoned reliance on this class of weapons. On the contrary, some signatories to the treaty have raised the salience of nuclear weapons in their defense strategies. Nuclear missiles remain on high alert in Russia and USA. China is still expanding its nuclear arsenal. In addition, at least three new nuclear weapon states have come into existence and there are immanent threats

of further proliferation. Countries such as Pakistan, India, Israel and North Korea continue to strengthen their nuclear weapons capability outside any framework of arms control. Although the practical value of missile defense systems is highly questionable, continued efforts to deploy them add unnecessary obstacles to the reduction of the nuclear threat. Concerted efforts are needed to establish the legal framework and practical basis for an arms control regime that covers all nuclear weapon states.

“The number of countries covered by nuclear-weapon-free zones has multiplied more than five-fold and now covers 115 nations, a clear indication of the will of the international community affirming the illegality of nuclear weapons.”

Circumstances are radically altered since the time of the ICJ’s advisory opinion, as detailed in Winston Nagan’s “Simulated ICJ Judgment”.¹ The continued insistence on and proliferation of nuclear weapon states is the most compelling argument for fresh action by the World Court. In addition, since 1996 many other countries of the world have weighed in to clearly state their abhorrence for these weapons. The number of countries covered by nuclear-weapon-free zones has multiplied more than five-fold and now covers 115 nations, a clear indication of the will of the international community affirming the illegality of nuclear weapons. Moreover, new insights have come to light regarding the horrendous consequences of nuclear radiation on human health and the potentially catastrophic impact on the earth’s climate. In the absence of immediate initiation of good faith negotiations by all the existing nuclear weapon states, steps should be taken to refer the matter back to the ICJ for further instructions leading to complete nuclear disarmament. These negotiations must necessarily identify essential conditions for achieving that goal without setting obstructive preconditions for the start of real negotiations.

“Organized public opinion is effective public conscience. Law is a codification of the public conscience.”

Nation-states are a central player in the formulation of international law, but they are not its sole arbiters. Organized public opinion is effective public conscience. Law is a codification of the public conscience. The universal principles of justice and the will of humanity as a whole are not fully and adequately represented by national governments. International law cannot be defined or based on what any individual country may or may not accept. The concept of sovereignty needs to evolve along with the evolution of the global community toward a greater inclusive notion of authority rooted in all peoples’ expectations about peace, security and dignity. International law, in short, must be predicated on the rights of not only nation-states but also the rights of individual citizens within nations and the rights of humanity as a whole.²

Nuclear weapons constitute a clear and present danger to the security of all humanity. The risks of terrorism, the spread of radioactive fallout, and the possibility of serious impact on climate change mean that the future of the whole world depends on the actions of individual

sovereign entities. All humanity has a right to a voice in determining the legality of actions by nation-states that may have ramifications far beyond their national boundaries. The authority of all sovereign entities rests with humanity as a whole. Civil society, which is presently the most evolved vehicle for the participation of humanity in global affairs, has already had a major influence on prevailing concepts of international humanitarian law and the legality of nuclear weapons. The core of the nuclear weapons problem is the challenge of evolving effective institutions for global governance. The solution to this and other serious challenges can only be resolved by humanity as a whole. More effective mechanisms are urgently needed to involve and give expression to the will of humanity on the legality of nuclear weapons. The threat or use of nuclear weapons is completely incompatible with the authority foundations of international law based on the people's expectations in the global community.

Recently, Kazakhstan launched a global initiative for the abolition of nuclear weapons called The Atom Project. The devastating impact of nearly 500 Soviet nuclear tests during the Cold War has led to cancer rates 50% higher than elsewhere in Kazakhstan, afflicting more than 1.5 million victims with early death, disease and birth deformities. Kazakhstan renounced and eliminated its nuclear arsenal 20 years ago. Now it is launching a global program of public education to be followed by a global referendum of humanity to garner international support for a nuclear-weapons-free world. Building on this example, we propose an initiative by nations and civil society to convert the negative pressure on Iran to forego nuclear weapons into a positive multi-national initiative for a nuclear-weapons-free world. Nuclear weapons constitute a threat to all humanity and to the physical environment of the earth. No nation has the right to unilaterally possess or wield a weapon whose consequences endanger the entire human race. A global referendum would provide an opportunity to all humanity to voice its views on this issue, giving concrete endorsement to the idea that the foundations of global authority rest with the aggregate of people of the earth-space community.

3. Collateral Threats

It is important to celebrate real successes such as START as a victory of multilateralism. The growing intensity of extremist positions based on religious, ethnic or political ideologies represents a serious threat to both national and global human security. We cannot afford to be complacent. If we want people to make peace, we must be able to curb the vitiating impact of hate speech. The development of global communications systems facilitates the instantaneous dissemination of inflammatory material both within nations and across national borders. Concerted efforts are needed to counter the social and psychological threats to multilateralism and world peace by celebrating all positive initiatives to create a more conducive atmosphere for peace and cooperation.

The threat of illicit nuclear material proliferation and terrorism is growing. All countries with nuclear weapons or energy programs are potential hosts for illegal transfers of nuclear technology and are vulnerable to accidents and theft during the transit of nuclear materials. The prospect of illicit trade in nuclear materials leading to nuclear terrorism poses catastrophic threats that necessitate far stronger measures to control access and drastically reduce the size of nuclear stockpiles. The known stockpile of highly enriched uranium is sufficient for the manufacture of more than ten thousand nuclear weapons. The absence of a safe repository for spent nuclear fuels in many countries, which necessitates their transport over long distances, makes these nuclear wastes highly vulnerable to both accidents and theft. South

East Europe is particularly susceptible to illicit trade in nuclear materials. The existence of largely neglected depositories of radioactive wastes in places such as the Vinca Institute of Nuclear Sciences at Belgrade demands urgent remedial efforts to ensure their safe storage and permanent disposal.

The vulnerability of modern computer networks to cyber-attack represents a new category of catastrophic threats to national and human security. This form of attack challenges traditional principles of deterrence. Unknown attackers make it extremely difficult to retaliate or hold the perpetrators accountable. In addition, an offensive and defensive cyber ‘arms’ race is escalating. This danger not only affects on-line systems, but also off-line nuclear command and control systems. While it is not clear to what extent military systems might be susceptible to cyber-attack, it is evident that global networks controlling governance, finance, economy and other major fields of social activity are extremely vulnerable. The use of cyber-attacks to counter nuclear fuel processing in Iran sets a dangerous precedent for new forms of terrorism. There is an urgent need to formulate new international law norms to completely outlaw electronic forms of aggression and terrorism, most especially those directed against civil functions essential for the survival and stability of modern society.

4. Nuclear Energy, Human Rights & International Law

The challenges related to non-proliferation and abolition of nuclear weapons are aggravated by the necessity of vastly increasing global energy production during the next half century. Nuclear energy is also a potential source of bulk energy that does not contribute to raising the levels of atmospheric CO₂. Consumption of enriched uranium for energy production also offers one way to reduce the enormous stocks of nuclear waste, while at the same time aggravating the risks of theft or diversion for military purposes. Moreover, nuclear accidents at Chernobyl and Fukushima are indicative of the immeasurable risks involved with the reliance on nuclear energy. The production of nuclear energy generates a series of challenges that may endure for hundreds of thousands of years.

The prospects for expansion of nuclear energy are constrained by four unresolved problems: high relative energy cost, especially when the full costs of catastrophic risk which make it impossible to privately insure new facilities are taken into account; perceived adverse safety, environmental and health effects; potential security risks stemming from proliferation and terrorism; and unresolved challenges in long-term management of nuclear wastes. Combined, these factors have generated high levels of public resistance to the expansion of nuclear energy in many countries and the decision of several other countries, including Germany and Switzerland, to completely phase out existing plants. Although much progress is being made to guarantee the security of highly enriched uranium worldwide, much more needs to be done urgently. Real understanding of the danger has still not penetrated governments and decision-making bodies.

The environmental and health risks associated with nuclear energy also raise important issues regarding the responsibility of generating states for the consequences of nuclear accidents that extend beyond their national boundaries. International licensing mechanisms are needed to clearly define the responsibilities and regulate the operations of nuclear energy producers, while safeguarding the rights and welfare of those who may be inadvertently affected. Full evaluation of the feasibility and desirability of future reliance on nuclear energy must

take into account the full range of political, social, medical, economic and ecological issues. Given the complex risks associated with nuclear energy, widespread public discussion and debate are needed to inform and educate world public opinion and global public policy.

5. Conclusions

The following concrete measures can be immediately taken to further progress on these issues:

“Aggression and war are products of culture and can be radically reduced by cultural means. War can and must be abolished.”

1. Initiative by international statesmen and non-aligned nations to induce Iran to take a positive leadership role in garnering international support for a nuclear-weapons-free world, as a means to provide a positive solution for the pending crisis in the Middle East and strengthen the commitment of Iran to remain a non-nuclear weapons state.
2. Concerted effort of civil society organizations and sympathetic national governments to conduct a global program of public education to challenge myths and superstitions regarding nuclear weapons that obstruct steps toward complete nuclear disarmament.
3. Exploratory steps to constitute an international consortium of civil society organizations and national governments to conduct a global referendum for a credible assessment of the will of humanity regarding the legality of nuclear weapons.
4. Reference back to the International Court of Justice for review of its 1996 Advisory Opinion on the legality of nuclear weapons and specific time-bound responsibilities of nuclear weapon states for achieving complete nuclear disarmament.
5. Formulation of a time-bound plan and steps leading to complete nuclear disarmament to be presented at the NATO conference in Split, Croatia on May 10-11, 2013.
6. Establishment of international advisory licensing boards to regulate the establishment and operation of nuclear energy reactors.

Scientific evidence rejects the view that aggression and violence are a natural and inevitable characteristic of human behavior. Biologically, war is not a necessary part of the human condition. War results from multiple motivations and plays multiple roles in human affairs. After centuries of incessant warfare, the establishment of enduring peace in Western Europe after 1945 clearly illustrates that aggression and war are products of culture and can be radically reduced by cultural means. War can and must be abolished. The total abolition of nuclear weapons and shift from nuclear to renewable energy resources will constitute landmark steps toward this essential goal.

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An Arctic Nuclear-Weapon-Free Zone – Needed Now

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Climate change and nuclear weapons, the two great security threats of the 21st century, are uniquely influential in the Arctic. Although the current risk of conflict is low, the global future is potentially turbulent. There is a ‘new’ Arctic because of meltdown induced by climate change. Some see great economic opportunities; others see ecological and human security threats. Governance requires new national and multinational agreements; *now is the time* to gain acceptance for a future nuclear-weapon-free Arctic.

Virtually all circumpolar governments have stated an Arctic policy of cooperation and diplomacy; one example is the 2011 Search and Rescue Agreement where there will be coordinated multilateral management. Nevertheless, each nation is making significant additions to their military presence and has already built or plans to build new naval hardware. Logistics support from the armed forces is needed because there must be orderly enforcement of regulations, so military strategy in the Arctic is not the sole purpose of this build up. However, the presence of nuclear weapons on or under the sea, in the air, or in missile bases just does not fit this picture. The opportunity exists now to start negotiations for the Arctic to be a Nuclear-Weapon-Free Zone (NWFZ). There are already seven NWFZ treaties under the United Nations, covering the southern hemisphere—Antarctica was the first—and some north of the equator such as the Central Asian NWFZ. These treaties are flexible to accommodate the needs of each region, but all require non-possession, non-deployment, non-manufacture, non-use, and these commitments must be verifiable and of unlimited duration. After ratification, these treaties must go through the legislative machinery of the nuclear weapon states for recognition and assurance that the region will not be the target of a nuclear attack.

There is a growing pressure to rid the world of nuclear weapons, not only from the majority of global citizens, but from influential elder statesmen, and civil society organizations. A Nuclear Weapons Convention, or the equivalent, a series of universal multilateral treaties is called for by the UN Secretary General Ban Ki-moon.¹ An NWFZ is regional Nuclear Weapons Convention, and is a significant confidence building measure contributing to nuclear disarmament and enforces a global non-proliferation regime. This NWFZ would be the first of its kind, encompassing only northern territories of sovereign nations, rather than the entire country. The challenges on the path to an Arctic NWFZ are formidable, as both the United States (Alaska) and Russia are nuclear weapon states (NWS). Russia’s main submarine bases, and a significant part of other nuclear forces, are in the Arctic. However, the military emphasis is shifting to the East, as both Russia and the U.S. find it necessary to increase their presence in Asia to counter the growing Chinese submarine fleet, some of which will be equipped with nuclear weapons. NWFZs are able to be flexible to fit the needs of the region. At least in early stages of an NWFZ, it is possible that the United Nations’ *right of innocent passage* could apply to Russia and/or American submarines that may transit the Arctic, but commit not to patrol there. Other potential flexibility exists for the propo-

sed Arctic NWFZ since the agreed region could be surface waters only, the land north of the Arctic Circle, or entire land and sea territory, or only airspace, or, all territorial waters, surface and sub-surface. A possible overlap with some of the already-negotiated boundaries of the 2011 Search and Rescue Agreement* could be useful. It seems likely that the regional Arctic NWFZ would, initially, include only sovereign territory of NNWS (Non-Nuclear Weapon States).

Several circumpolar nations are in NATO, a nuclear alliance. The challenge posed by NATO [North Atlantic Treaty Organization] is evident, as many NATO members participated in *Cold Response*, Naval Games in the Arctic Ocean in March 2012, but it was not under the auspices of NATO. This hurdle is political, as NATO members have the right to be part of an NWFZ, without violating their membership agreement. NATO's presence in the Arctic would be a potential barrier to negotiations for an NWFZ. Russia does not want NATO to establish a presence in the Arctic, and NATO Secretary-General Rasmussen has assured Moscow that it does not intend to establish in the Arctic.² Canada, in NATO fora, continues to refuse discussions of the Arctic. It is of note that some NWFZ member-nations are also under a nuclear 'umbrella', e.g. Australia, and several former Soviet republics.

The Arctic NWFZ has been proposed in earlier years, by scientists on both sides of the Cold War, by civil society groups, within the Nordic Council, and by important indigenous groups, particularly the Inuit Circumpolar Conference in 1983, and even by Mikhail Gorbachev in 1987 (Arctic Zone of Peace). In late 2011, Denmark made that an explicit goal of its Arctic foreign policy, and, so far it is the only circumpolar state to do so. Several individual members of parliament in Canada have made the proposed Arctic NWFZ visible through motions in both upper and lower house and with a Private Member's Bill. The ten-country ministerial meetings of the Non-Proliferation and Disarmament Initiative (NPDI) have strongly endorsed NWFZs. It is to be hoped that Denmark's initiative, and the informal bilateral and multilateral discussions that flow from this will lead to a united commitment to an NWFZ by all the non-nuclear weapon states (NNWS) in the Arctic. With a united front, these countries have an opportunity for a positive outcome when they approach the NWS, United States and Russia. A resolution of the United Nations General Assembly is another useful tactic, provided that broad support is behind it. Historically, states outside an NWFZ have responded to global and regional pressure, over time, and become part of it.

The need for starting negotiations exists today. As noted in the Kingdom of Denmark Strategy for the Arctic 2011-2010, "The basis for the future of the Arctic is being created now..." As urged by Canadian Senator Dallaire, "...Now is the time to launch this initiative, while the Arctic is being shaped, because this opportunity will not last for long." To realize a northern vision of peace, all of us must continually press governments to uphold and progress with this proposal until such time as these governments are actively engaged in negotiating the Arctic NWFZ.

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Notes

1. SG/SM/11881 DC/3135, "'Contagious' Doctrine of Deterrence has made Non-Proliferation more difficult, raised New Risks, Secretary-General says In address to East-West Institute" *United Nations Dept. of Public Information* <http://www.un.org/News/Press/docs/2008/sgsm11881.doc.htm>
2. Ronald O'Rourke, *Changes in the Arctic: Background and Issues for Congress* (Washington, D.C.: Congressional Research Service, 2010).

* Agreement on Cooperation on Aeronautical and Maritime Search and Rescue in the Arctic, 12 May 2011 <http://library.arcticportal.org/1474/>

ACTIVITIES & EVENTS

Report on Recent Events

Humanities and the Contemporary World, Podgorica, Montenegro: The past five months have been among the most fruitful periods of activity for the World Academy in recent memory. It commenced with the conference hosted by the Montenegrin Academy of Sciences and Arts and co-organized by WAAS on June 7-9, 2012, as reported in the [Summer 2012 WAAS Newsletter](#). WAAS organized special sessions at the conference on two major programs of the Academy, Individuality and Limits to Rationality. Papers on Human Capital and Individuality form the content for the first issue of *Eruditio*, the Academy's new e-journal. Papers on Limits to Rationality will appear in the second issue of *Eruditio* due out in early 2013. A complete set of conference presentations, papers and photographs is now available on the [WAAS website](#).

First International Social Transformation Conference (ISTC) and the TESLA (The Earth Supreme Level Award) Conference, Split, Croatia: WAAS co-sponsored this major event on July 10-13, 2012, which is also reported in the WAAS Newsletter. The event featured about 80 prominent economists, scientists and scholars from around the world, including eight WAAS Fellows, examining monetary systems and alternative monetary systems, particularly energy currency. The nature and role of Money in social development have been recurring themes of the Academy's activities over the past decade. Participants emphasized that economy, energy and governance are strongly interconnected, that current debt-based money based on myopic policies creates instabilities, destroys natural, human and social capital. The following is the final version of the ISTC Declaration. The conference also announced the establishment of the TESLA, an award for unrecognized genius, an initiative with momentous potential for accelerating the development and recognition of human potential, as discussed in a [Seed-Idea](#) in this issue. The final [Declaration of the Split conference](#) is also included in this issue.

A Secure World Without Nuclear Weapons, Pugwash, Canada: One of the founding objectives of *Cadmus* is to promote closer cooperation between the World Academy and Pugwash Conferences, two institutions which share common origins, goals and a significant overlap in both founding and current membership. WAAS was represented at an important international workshop organized by Canadian Pugwash on Aug 16-18, 2012. A [report on the conference](#) is appended.

From a Nuclear Test Ban to a Nuclear-Weapons-Free World, Astana, Kazakhstan: Four WAAS Fellows participated in this high level international conference in Astana on August 27-29, 2012 organized by the Government of Kazakhstan and the Parliamentarians for Nuclear Non-proliferation and Disarmament (PNND) with the participation of about 100 parliamentarians from around the world. The conference declaration calls for an unequivocal ban on nuclear weapons testing and the total global abolition of nuclear weapons. This issue of *Cadmus* contains a report on the conference, "[Stop the Insanity](#)", the final Declaration issued by PNND, and the announcement of the launching of "[The Atom Project](#)", a very important global initiative for the abolition of nuclear weapons.

The 14th International Conference on [Sustainable Development and Eco-innovation](#), Krakow, Poland: The World Academy also co-sponsored a conference organized by WAAS Fellow Jan Dobrowolski at the AGH University of Science and Technology in Krakow on September 6-8, 2012. Building on two of its core project themes, WAAS conducted a special session on the role of human capital and individuality in scientific discovery, technological innovation, business and leadership.

[The Dream of a Global Knowledge Society](#), Dubrovnik, Croatia: WAAS is extremely pleased to announce that it has been elected a member of the Inter-University Centre in Dubrovnik, Croatia, an organization which includes about 120 leading universities from around the world among its members with the mission to promote international co-operation between academic institutions throughout the world. WAAS was a co-sponsor of the international conference on education conducted at IUC on September 9th to celebrate its 40th anniversary. The conference emphasized the critical linkage between education and employment and stressed the need for cost-effective strategies to deliver higher education to hundreds of millions of youth in developing countries.

Nuclear Threats and Security, Dubrovnik, Croatia: On September 14-16, 2012, the Academy conducted a high level international conference in collaboration with The European Leadership Network and the Dag Hammarskjöld University College of International Relations and Diplomacy with sponsorship and participation from NATO. Thirty-eight delegates, including 13 WAAS Fellows, participated in two days of intensive discussion on issues related to nuclear non-proliferation and disarmament, the legality of nuclear weapons and their use, illicit trade in nuclear materials, the dangers of nuclear terrorism, nuclear and cyber-security. Ted Whiteside, NATO Deputy Assistant Secretary General for Public Diplomacy, invited the organizers to prepare and present recommendations at a major NATO conference in Split in Spring 2013. An article "[Nuclear Threats and Security](#)" presenting highlights of the conference is included in this issue. Papers, session summaries and video recordings of the major presentations can be found [here](#).

European Forum for New Ideas 2012, Sopot, Poland: WAAS was a knowledge sponsor of a major [international conference](#) consisting of over 1300 delegates drawn primarily from business and government. Five Fellows of the Academy participated and made presentations in sessions focusing on the impact of demographic changes, employment challenges, innovation and energy. The conference concluded with the [Sopot Declaration 2012](#) containing specific recommendations to improve competitiveness, solidarity and quality of life in Europe.

The Power of Mind, Annual Meeting of the Club of Rome, Bucharest, Romania: Forty years after publishing its first Report on *The Limits to Growth*, the Club of Rome held its Annual Conference on October 1-2, 2012 in Bucharest, where it brought together some of the world's thought leaders to debate the most pressing challenges of our time. Participants included 19 WAAS Fellows. "[The Power of Mind](#)," which follows, provides an overview of the conference.

Declaration of the 1st International Social Transformation Conference — 12 July 2012, Split

Energizing Euro

The current crisis is an indictment against the dominant competitive economic theory. To liberate the economy from exponential debt growth, so that it works for people and the planet, we need to change how money works.

Our modern debt-based money creates the illusion of continuously growing wealth. But, it only delivers forced trade and labour; forced loss of bio-diversity and environmental degradation; instability of employment and local markets; misleading social incentives and misallocation of resources; deceptive indicators of economic progress that breed myopic policies demanding endless economic growth bound up with raising income inequality, which can usurp the Sovereignty of Nations, and pose threats to freedom and justice as the underlying principles of democracy.

Opportunities exist to provide an efficient, equitable and stable financial system. We need a feedback loop from nature to the economy, and a variety of democratically based alternatives are now arising that can help to resolve the problem.

1. Consider Renewable Energy the Key

Energy may become a basis for defining economic values, as industrialised societies are highly dependent upon it and traditional societies manage it better. Economic thinking in terms of time & energy (kWh) can help to address some of the basic systemic challenges facing our world. Currency designers and thinkers must engage with civil society and public authorities, understand their needs and show how different types of money, whether anchored to renewable energy or to any other terms of enumeration /basis of issue that meets with common consent, can help them achieve the goals of humanity.

2. See the Positive

Different types of competing alternative currencies, including those that use units of renewable energy as a reference, can help money in performing its traditional functions first of all as a unit of accounting but also as means of payment, including for taxation. However, they do not necessarily need to perform the function of storing value. Money anchored to renewables can be a good incentive for more ecologically sustainable consumption & production. It can mobilise investment in renewable energy and energy efficiency savings.

3. Adapt the Responses

A range of currency designers and other actors in society are coming together to support different currency innovations and are actively engaging at all political levels: in local, national and European governments, in all public sector agencies, environmental NGOs, charitable foundations, trade unions and among community activists. The best minds of physics, ecology, economics and currency design are now coming together as we search for a viable solution.

The European Union has the **opportunity and mandate** to set an example in using innovative approaches to tackle its current crises and maintain the vitality of society as well as the integrity of the Union.

- Institutional innovation and novel actions are needed in the field of economics and finance **to find viable solutions** that will help Europe and the world.
- The EU should support the scaling up and replication of existing currency innovations and associated research, information and education, and **promote insight on the best practices** in reaching public policy goals through alternative currencies not based on debt.
- The EU should **recognise the need of and provide support within its next Multiannual Financial Perspective for the establishment of an independent research institution** aimed at designing and implementing advanced currency models and providing quality advice on monetary policy to the decision makers.

It Is Time To Think Outside The Box!



Report on the Pugwash Conference on August 16-18, 2012

Canadian Pugwash organized a Strategic Foresight Workshop on “A Secure World without Nuclear Weapons” in Nova Scotia, Canada, August 16-18, 2012. The workshop was attended by over 30 Pugwashites from all around the world. This workshop included outstanding talks by Senator D. Roche, one of the founders of the Middle Powers Initiative, on “Reasons Why Nuclear Disarmament Has Not Been Achieved”; by H. Burkhardt on “Governance for a Peaceful World” and by D. Paul on “A 2012 View of the Possibility of a WWNW”. Among reasons why we have not achieved nuclear disarmament, Roche stressed the following: first, duplicity of nuclear weapons states; second, timidity of non-nuclear weapons states; third, media, that considers nuclear weapons as “old news” and never emphasizes the true danger of weapons for mass destruction; fourth, confused public opinion, nuclear weapons are never an issue in elections; and fifth, academic, business and religious leaders seldom speak of nuclear danger. Actually, quite some progress has been achieved in reducing the number of nuclear weapons in the USA and the Russian Federation, but there is a proliferation in other countries. Certainly, total elimination of nuclear weapons and abolition of war are demanding and complex tasks and major new ideas and approaches are necessary. The workshop concluded with recommendations focusing on the role of a Strategic Foresight technique in future planning, dialogue and advocacy on nuclear disarmament.

This is just one of the many Pugwash activities in early 2012. It is important to stress the significance of the conferences and workshops organized in Israel. See recent reports on the [Pugwash website](#) for more information.

Stop the Insanity — Report on Astana Conference

Editorial Note

None who has witnessed the human suffering inflicted by nuclear radiation at the Semipalatinsk Nuclear Test Site in Kazakhstan can justify the continued existence of nuclear weapons for a single moment longer than is needed to destroy all of them. Statistics do not tell the story, but if ever a statistic makes a compelling narrative, then the 1.5 million Kazakhstanis who have suffered from the fallout of nearly 500 nuclear tests over 4 decades must be more than sufficient to convince even the most skeptical. None of these victims were targeted by a nuclear weapon, but many have suffered a fate worse than death. A single intentional detonation of a modern nuclear weapon on a civilian population today would inflict even greater human suffering.

A powerful and irrefutable message emerges from the international conference “From a Nuclear Test Ban to a Nuclear Weapons Free World” held in Astana, Kazakhstan on 29th August 2012, the International Day Against Nuclear Tests. Continued reliance on nuclear weapons is pure madness. These weapons can only be utilized for one purpose — to target defenseless civilian populations. As the International Court of Justice made abundantly clear in its 1996 Advisory Opinion, any such usage would constitute a crime against humanity. But we also recognize that the continued existence of these weapons and the implicit or explicit threat of their use or proliferation are a crime of the highest order being perpetrated by nuclear weapons states and their satellites on a hapless world.

More than 100 foreign participants in the Astana conference unanimously concurred with their Kazakhstani hosts, the first nuclear power country to voluntarily renounce possession of nuclear weapons and destroy their entire arsenals. It is time to end this insanity and abolish nuclear weapons from the face of earth. The conference declaration follows below.

Parliamentary Appeal for Nuclear Abolition: From a Nuclear Test Ban to a Nuclear Weapons Free World

*Adopted in Astana, Kazakhstan
29 August 2012*

Legislators and governments have a responsibility to protect the security of citizens living within their jurisdictions and to protect their respective localities and the global commons for future generations.

The catastrophic humanitarian and environmental consequences from the nuclear tests in Semipalatinsk, Kazakhstan — and from other nuclear test sites around the world — demonstrate that the effects of any use of nuclear weapons are uncontrollable in time and space.

The possession of nuclear weapons generates a threat of their proliferation and use that pose risks to current and future generations that are unacceptable, unnecessary, unsustainable and contrary to basic ethical considerations and international humanitarian law.

The approximately \$100 billion spent annually on nuclear weapons by a few States consumes intellectual, scientific and financial resources desperately required to meet the environmental, social and human security needs of the 21st Century.

Some nations, like Kazakhstan, have decided to unilaterally abandon the possession of nuclear weapons and achieved greater security and prosperity as a result. Many nations, including all those in the Southern Hemisphere and a number in the Northern Hemisphere such as in Central Asia, have enhanced their security through establishing regional nuclear-weapon-free zones.

The United Nations General Assembly and the States Parties to the nuclear Non-Proliferation Treaty have called on States to establish the framework for a nuclear-weapons free world through negotiations on a nuclear weapons convention or package of agreements.

United Nations Secretary General Ban Ki-moon has circulated a Five-Point Plan for Nuclear Disarmament which includes a Model Nuclear Weapons Convention as a guide to such negotiations. The UNSG's plan has been supported by unanimous resolution of the Inter-Parliamentary Union representing over 150 parliaments and by various resolutions in national parliaments.

We commend President NursultanNazarbayev and the Republic of Kazakhstan for leadership in the global nuclear disarmament process including the closure of the Semipalatinsk nuclear test site on 29 August 1991, and the decision to voluntarily renounce the fourth largest nuclear arsenal in the world.

We also commend Kazakhstan for initiating the UN International Day Against Nuclear Tests, which was established by unanimous resolution of the United Nations General Assembly, with the aim to contribute to the goals of nuclear disarmament, non-proliferation, a world-wide ban on nuclear tests, and a world free from nuclear weapons.

We welcome moves by the Nuclear Weapon States to complete the ratification process for the protocols to nuclear weapon-free zone treaties, as steps to significantly strengthen the architecture of regional and international security.

We welcome in particular the negotiations between the Central Asian States on one side, and China, France, Russia, United Kingdom, and the United States on the other side, on the protocols to the Central Asian Nuclear-Weapon-Free Zone, and call for its early completion.

We support the new initiative of President Nazarbayev of the Republic of Kazakhstan for the adoption, within the UN of a Universal Declaration on the achievement of a nuclear-weapon-free world, as another important step towards the adoption of a nuclear weapons convention.

We are strengthened in our resolve to advance nuclear disarmament measures, by having visited the former Semipalatinsk Nuclear Test Site, where Soviet nuclear weapons were tested for more than forty years. 468 surface and underground nuclear tests were conducted from 1949 to 1989. One 50 megaton test alone was several thousand times more powerful than the bombs dropped on Hiroshima and Nagasaki. The tests have caused immeasurable medical and economic related suffering and death to millions of people.

Further progress needs to be made with concrete actions to achieve the abolition of nuclear weapons, according to a multilateral, transparent, irreversible and verifiable schedule.

Therefore, we call on parliaments and governments to:

- a) maintain existing moratoria against nuclear tests, and fully support the Comprehensive Nuclear Test Ban Treaty, including full ratification and entry-into-force, financing and support for the international monitoring network;*
- b) halt any further production of nuclear weapons;*
- c) operationalize the reduction of the role of nuclear weapons in their security doctrines;*
- d) establish prohibitions against nuclear weapons through action in their own legislatures;*
- e) establish guidelines that prohibit investment of public funds in enterprises engaged directly in manufacturing nuclear weapons or their delivery systems;*
- f) establish additional regional nuclear weapon free zones, as appropriate, especially in the Middle East, North East Asia and the Arctic;*
- g) commence preparatory work to build the framework for a nuclear weapons free world including through negotiations on a nuclear weapons convention or package of agreements.*

We are all stand united in our common determination to build nuclear-weapons-free world.

We pledge to act on and share this Appeal with legislative forums, decision makers and society.

The ATOM Project

The ATOM Project is a new international initiative to build global support for a permanent end to nuclear weapons testing and the total abolition of nuclear weapons. It was launched at a parliamentary assembly in Astana, Kazakhstan on August 29, 2012, the UN International Day Against Nuclear Tests, established in recognition of the closing of the Semipalatinsk nuclear test site on that day in 1991 by the President of Kazakhstan.

The ATOM Project seeks to unite global public opinion about the documented catastrophic humanitarian consequences of nuclear weapons testing – particularly the 450 nuclear tests conducted in Kazakhstan between 1949 and 1991 that adversely affected the health and lives of nearly two million people.

The Project recognizes that in recent decades the cause of abolishing nuclear weapons and weapons testing, and the awareness of the fundamental dangers they pose to life on the planet have been superseded by other humanitarian and environmental issues. The Project believes the time has come to revive among governments and publics around the world an awareness on how dangerous and appalling the consequences of the testing and retention of nuclear arsenals have been, and the threats that their continued possession pose to the human race.

The ATOM Project's mission is the unification of global support for a permanent end to nuclear weapons testing and the complete eradication of nuclear weapons in all countries.

The ATOM Project seeks to share documented reports and concerns of scientists, doctors and nuclear experts around the world about the medical and environmental costs of nuclear weapons production, testing and deployment to the general public and then inspire them to take concrete action by signing the international ATOM Project petition.

The ATOM Project is implementing an international communications effort with a particular focus on the publics of nuclear weapons-armed states to educate and remind them of the terrible realities of nuclear war that were documented in the 1945 attacks on the cities of Hiroshima and Nagasaki, and on the enormous human and environmental damage and suffering caused by the legacy of five decades of nuclear weapons testing that followed around the world until the Comprehensive Test Ban Treaty was open for signature in 1996.

The ATOM Project is also developing follow-up steps to its educational and awareness efforts to focus on the growing global concern about the threat of already existing nuclear weapons arsenals. These include developing plans to organize a movement to hold a global referendum that will enable people around the world to directly exercise their sovereign rights to express their position on the nuclear disarmament issue.

The ATOM Project highlights the suffering of individual victims of nuclear testing over the decades around the world and hopes to bring people's attention to the plight of possibly as many as 15 million victims of radiation poisoning that are suffering today worldwide in countries such as Kazakhstan, Marshall Islands, Japan and Algeria.

The ATOM Project believes that the stronger the public support it can generate through its educational and awareness-raising efforts and its international petition drive against weapons testing, the more it will be able to generate increased support for the efforts of non-governmental organizations (NGOs), parliamentarians and activists in support of the initiative to influence the leaders of major nations towards achieving a nuclear-weapons-free reality.

The ATOM Project features the stories and images of some of the survivors and victims of the 40 years of nuclear testing in Eastern Kazakhstan and of the severe physical consequences suffered by their descendants. Though sometimes difficult to witness, these individuals are featured in the campaign in order to demonstrate the human toll of nuclear weapons testing.

Kazakhstan's President Nursultan Nazarbayev launched the project at the opening plenary session of the 2012 international conference, *From a Nuclear Test Ban to a Nuclear-Weapons-Free World*, in Astana, Kazakhstan on August 29. The event drew more than 200 foreign participants from more than 75 countries and more than 20 international organizations, including the United Nations and the International Atomic Energy Agency. The conference included participants from more than 70 parliaments from around the world, including nuclear weapons possessing states and nuclear allies. The gathering was organized by the Majilis of the Parliament, the Nazarbayev Center and the Foreign Ministry on the Kazakhstani side, and by the Parliamentarians for Nuclear Non-Proliferation and Disarmament (PNND).

"We have an opportunity to once more remind the world about the tragic consequences of nuclear testing and to push the global community towards more decisive actions to achieve a final and definitive ban of such testing," President Nazarbayev told the conference participants, *"In this regard, Kazakhstan launches today the international campaign, The ATOM Project."*

"Under the Project, any human being on Earth, who stands against nuclear weapons, can sign an online petition (at www.theATOMproject.org) urging governments of the world to abandon nuclear tests forever and ensure early entry into force of the Comprehensive Nuclear Ban Treaty. I urge the participants of the conference and all the people of the goodwill to support the ATOM Project and to make the creation of the non-nuclear world our main goal," the President added.

The ATOM Project is an initiative of the Nazarbayev Center, whose mission includes working to advance President Nazarbayev's vision of a nuclear-weapons-free world.

At the conference, President Nazarbayev said that during the four decades of Soviet nuclear explosions at Semipalatinsk, Kazakhstan endured almost half of all nuclear tests carried out across the world. *"From day to day the radiation poisoned our steppes, rivers and lakes, slowly killing all life in the area,"* the President said. *"This nuclear evil destroyed the lives and health of over 1.5 million people of Kazakhstan living in the vicinity of the test site. The effects of the nuclear tests are being felt to this day."* Nazarbayev also suggested creating a global anti-nuclear parliamentary assembly. *"Parliamentarians from all countries of the world are present at the conference today. That is why this forum can be called a prototype of the global anti-nuclear parliamentary assembly. I suggest considering the establishment of such an institute,"* he said.

Nazarbayev also urged the necessity of developing the ATOM Project to revive popular movements around the world to campaign together for the abolishment of all nuclear weapons.

German Foreign Minister Guido Westerwelle who attended the August 29 conference also announced his country's support for the ATOM Project.

Dr. Lassina Zerbo, representing the Comprehensive Nuclear Test Ban Treaty Organization (CTBTO), acknowledged the success of the Comprehensive Test Ban Treaty over the past 16 years in virtually eliminating the specter of nuclear test explosions around the world. But he also warned against the dangers of complacency and the need to revive and reinvigo-rate the movement for global nuclear disarmament.

"Since the CTBT was adopted in 1996, the genie of nuclear testing has virtually been pushed back into the bottle. In contrast to some 400 explosions every decade since 1945, there were only two tests in the last decade. However, until we seal the bottle once and for all, until we bring the treaty into force, none of us can feel safe," Zerbo said.

Douglas Roche, founding chair of PNND and the Middle Powers Initiative (MPI), called on parliamentarians to strengthen their actions in their legislatures, guided by the Parliamentary Appeal for Nuclear Abolition adopted at the assembly. He outlined the MPI Framework Forum which is an informal process of governments exploring what would be required for establishing the framework for a nuclear-weapons-free world. The next meeting of the forum is scheduled to be hosted by the German Foreign Ministry in Berlin in February 2013.

Roche also called for a new effort for the heads of governments – similar to the Six Nation Initiative of 1984-1989 – to elevate the call and commence the process to achieve a nuclear-weapons-free world. His proposal was explored in more detail by Jonathan Granoff, President of the Global Security Institute, in a subsequent panel of the August 29 conference.

"PNND is honored to partner with The ATOM Project to help educate parliamentarians, governments and civil society about the horrific humanitarian consequences of any use of nuclear weapons and the imperative this provides for their abolition," PNND Global Coordinator Alyn Ware said after the conference, *"This assembly in Kazakhstan, which included a field trip to the former Soviet nuclear test site in Semipalatinsk, has energized parliamentarians from around the world to step up their action to abolish nuclear weapons, including through the spread of nuclear-weapon-free zones and the promotion of a global treaty to ban nuclear weapons."*

A 1991 study by the Nobel Peace Prize-winning organization International Physicians for the Prevention of Nuclear War (IPPNW) estimated that the radiation and radioactive materials from atmospheric testing taken in by people until the year 2000 would cause 430,000 cancer deaths, some of which had already occurred by the time the results were published.

The IPPNW study further predicted that roughly 2.4 million people could eventually die from cancer as a result of atmospheric testing. The CTBTO accepted this estimate and cited it in its own publications.

Bio-statistician Rosalie Bertell in her 1985 book *No Immediate Danger: Prognosis for a Radioactive Earth* estimated that the global casualties from nuclear weapons production and testing are much greater, probably between 10 million and 22 million.

According to Bertell, these casualties are comprised as follows:

- Fetal and infant deaths: 68,000 – 95,000
- Cancer victims: 2 – 6 million
- Severe congenital deformities: 18,000 – 22,000
- Mild congenital deformities: 7 million
- Genetically damaged children: .5 million – 9 million

Bertell's figures were higher than those previously accepted by the International Commission on Radiation Protection, which had assumed a safe minimum threshold for radiation exposure, and thus estimated a lower impact from low-level radiation exposure from the nuclear tests. However, the United Nations Scientific Committee on the Effects of Atomic Radiation in its Year 2000 Report to the UN General Assembly rejected the threshold argument, thus indicating that Bertell's figures were probably more accurate than the lower figures from ICRP.

The UN Committee also affirmed Bertell's estimates about the much greater risk of damage to genes, and cancer risks to babies and fetuses in utero and young children than accepted by the ICRP.

More recently, studies by the International Commission on Radiological Protection also support Bertell's earlier warnings and further challenge the threshold argument. They further point to the conclusion that there is no threshold, and that low-level radiation from global testing has thus caused – and will continue to cause – health effects proportionate to the total radiation absorbed globally, and not contingent on moderate or high-level individual absorption.

PNND Global Coordinator Alyn Ware said: *"I believe it is safe to claim that the global impact of nuclear tests is somewhere between 2 million and 6 million deaths, and up to 20 million people with severe health impacts including cancers (some of which are treatable like thyroid cancer but reduce life quality) and birth defects."*

In 2005, the International Commission on Radiological Protection published a further study on this subject entitled *Low-dose Extrapolation of Radiation-related Cancer Risk* (ICRP Publication 99 Ann. ICRP 35 (4), 2005) in which it concluded:

"The fundamental role of radiation-induced DNA damage in the induction of mutations and chromosome aberrations provides a framework for the analysis of risks at low radiation doses and low-dose-rate exposures. Although cells have a vast array of damage response mechanisms, these mechanisms are not foolproof, and it is clear that damaged or altered cells are capable of escaping these pathways and propagating. Cellular consequences of radiation-induced damage include chromosome aberrations and somatic cell mutations. Current understanding of mechanisms and quantitative data on dose and time-dose relationships support the LNT (linear non-threshold) hypothesis. Emerging results with regard to radiation-related adaptive responses, genomic instability, and bystander effects suggest that the risk of low-level exposure to ionising radiation is uncertain, and a simple extrapolation from high-dose effects may not be wholly justified in all instances."

The deformed children born to the inhabitants of Eastern Kazakhstan, who lived within the fallout region of the 40 years of Soviet nuclear testing, are witness to the horrific human reality of unlimited suffering, about which experts warn us using careful, precise scientific terms.

Trapped in the body of a three-year-old baby, 11-year-old Valikhan Serikkaliev suffers from Osteogenesis imperfecta leaving him crippled and unable to walk for life with severe bone deformity and abnormally small stature. His condition is incurable.

The face of Berik Syzdykov, 33, is horribly deformed and has become almost unrecognizable as a human face as facial cancers have developed. Syzdykov suffers from neuro-fibrolipomatous, benign tumor, residual encephalopathy and congenital glaucoma and had to undergo numerous surgeries. He is now incurably blind.

Three-year-old Rustam Zhanabayev lives in a foster home. His genetic deformities were so horrific that he was abandoned at birth by his parents. He was diagnosed with malfunction of the brain, and hydranencephaly at the stage of decompensation. His brains have the consistency of water. He spends his entire life in a wheelchair and cannot move his head because it is too heavy for his body.

Dina Batyrova is another abandoned baby that lives in a foster home. She was born with a malformation of the brain and hydranencephaly at the stage of decompensation. Her head is the size of her whole body and is filled with water. She cannot move it and she cannot even sit up. She might die at any moment.

The ATOM Project is dedicated to reviving and expanding the movement for global nuclear non-proliferation and disarmament to ensure that no more nuclear tests take place and that eventually the specter of nuclear war is fully and finally removed from the human race.

The goals of the Project were articulated well by the Honorary ATOM Project Ambassador Karipbek Kuyukov of Kazakhstan, a survivor of the effects of nuclear tests, who spoke at the assembly about the horrific impact of the tests on the lives of the people who had to endure them. *“Many (of the people in my life) have died from the radiation from the nuclear tests,”* he said. *“In one family, first the father then the mother then all the children passed away – the whole family of 10. I myself have no arms to hug you, but I have a heart as big as the open space of Kazakhstan ready to embrace the world for peace and nuclear disarmament.”*

Savas Hadjikyriacou, President & CEO, Coast to Coast Ltd

Roman Vassilenko, Deputy Director, The Nazarbayev Center, Kazakhstan

Martin Sieff, Chief Global Analyst, The Globalist Research Center;
Editor-at-Large, The Globalist

The Power of Mind — Report on the Club of Rome Annual Conference in Bucharest

Forty years after publishing its first Report on *The Limits to Growth*, the Club of Rome held the 2012 Annual Conference on October 1-2, 2012, in Bucharest, Romania, where it brought together some of the world's thought leaders to debate the most pressing challenges of our time.

In 1972, *The Limits to Growth* commanded critical attention and sparked debate around the world about the future of humanity. It pointed out that exceeding our global capacities for resource use and emissions would place significant limits on global economic development in the 21st century.

On the occasion of the 40th Anniversary of the Report, two of its original authors, Dennis Meadows and Jorgen Randers, commented on the development and progress over the last 40 years — and took a critical look into the future of our planet. Meadows stressed the inconvenient realization that humanity has entered the uncharted territory of “overshoot” and therefore “lost the option of a sustainable future”. Randers presented the findings of the newest Report to the Club of Rome 2052 — *A Global Forecast for the next forty years* and raised the possibility that humankind might not survive on the planet if it continued on its path of over-consumption and short-termism. Participants recognized the urgent necessity of measures to increase resilience and adaptation.

A working group on New Economy discussed a background paper by Ian Johnson and Garry Jacobs on the prospects for achieving radical and profound reform of the economic system to meet the challenges of the future. Parallel sessions explored the need for a change in humanity's value system and sustainable pathways for future energy supply. The Governor of the National Bank of Romania, Mr. Mugur Isărescu, called for reform of the International Banking System. Mircea Malitza's reflected on his earlier Report to the Club on education, *No Limits to Learning*.

The Annual Assembly elected Ernst Ulrich von Weizsäcker (Germany), Co-Chair, International Panel on Sustainable Resource Use, and Anders Wijkman (Sweden), former member of the European Parliament and Vice-Chairman of the Tällberg Foundation as new Co-Presidents of the Club, and Roberto Peccei as Vice-President of the Club. All three are also Fellows of the World Academy of Art & Science.

Cadmus Editorial Policy

The editors welcome submission of proposals, articles, ideas, abstracts, reviews, letters and comments by Fellows of the World Academy of Art & Science, Members of the Club of Rome and Pugwash as well as invited and unsolicited articles from the public. All proposals are reviewed by the editorial board to determine their suitability for publication in Cadmus.

The clear intention behind the founding of Cadmus is to publish fresh perspectives, original ideas, new approaches that extend beyond contemporary thinking with regard to the relationship between knowledge, public policy and society today and their impact on human wealth, welfare and well-being – human security defined in its broadest terms. It is summed up in the motto “Leadership in Thought that Leads to Action”.

Special issues will also be published from time to time devoted to specific topics.

The primary guidelines for selection of articles are

- The article should address issues of broad social concern to the world today
- The article should not be one that naturally qualifies for publication in a more traditional journal devoted to a specialized discipline, i.e. it should be multi- or trans-disciplinary in scope and implications
- The article should present an original perspective, conception or practical approach
- The article may be in the form of an essay of ideas, an annotated theoretical discussion or fact-based scientific evaluation of evidence. We accept all three.

These guidelines are general and not rigid. Acceptance or rejection of an article does not reflect at all on its academic or intellectual merit, only on the degree of its alignment with the specific objectives of Cadmus.

Submissions may be of any length but preference will be given to articles of 5-10 pages and shorter pieces of 1-3 pages.

Style guidelines and an MS Word style sheet are available for download from the Editorial Policy section of our website.

We are also looking for articles to publish on www.Seed-Ideas.org that may not be included in the print edition of Cadmus but can serve as a platform for projecting and discussion of ideas among Fellows. We also plan to publish highlights of those articles and discussion on them in the printed version.

We would encourage you to share any manuscript with us that you think might be what we are looking for.

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The EU has been an enormous success, demonstrating beyond question that it is possible to begin with a very limited special-purpose federation and to gradually expand it, judging at each stage whether the cautiously-taken steps have been successful.

John Scales Avery, Federalism and Global Governance

Understanding money as a social organization, we perceive that it is capable of infinite multiplication, the same way information, knowledge, law, education and other social institutions can and do multiply.

Garry Jacobs and Ivo Šlaus, The Power of Money

The economics of the industrial era and the 20th century is not appropriate to the 21st century service economies, where human capital and natural capital are—and should be—increasingly valued, and estimates of “wealth”, national product, and human happiness and satisfaction are increasingly questioned.

Michael Marien, New and Appropriate Economics for the 21st Century

We rely on nuclear deterrence out of habit and because doctrines and ideas developed during the Cold War got locked in place by fear. But now we have emerged from the Cold War. It makes sense to reexamine the ideas of that time and critically reevaluate evidence, doctrines and judgments made during that time.

Ward Wilson, Myth, Hiroshima and Fear

The paper argues for a wider, inclusive concept of sovereignty that accords full recognition to the rights of individual citizens and the rights of the human community as a whole.

Winston P. Nagan and Garry Jacobs, Sovereignty and Nuclear Weapons

One rule of non-possession for all will be far more conducive than our present world of nuclear haves and have-nots to the development of a just and legitimate system of international law and institutions, which in turn will reinforce the durability of abolition of nuclear weapons.

John Burroughs, Nuclear Weapons, International Law and Global Order

There can be no reasonable situation where threat of use of nuclear weapons would be justified for self-defence. But such a threat exists in the very possession of nuclear weapons themselves. The implication, therefore, is that nuclear weapons must be totally eliminated from national arsenals.

Jasjit Singh, Legality of Nuclear Weapons

Cooperative security, in place of the current competitive security, is needed to meet not only the requirement of nuclear disarmament but also the many challenges of the 21st century.

Manpreet Sethi, India's Disarmament Initiative 1988

The core of the nuclear weapons problem is the challenge of evolving effective institutions for global governance. The solution to this and other serious challenges can only be resolved by humanity as a whole.

Garry Jacobs and Winston P. Nagan, Nuclear Threats and Security

Governance requires new national and multinational agreements; now is the time to gain acceptance for a future nuclear-weapon-free Arctic.

Adele Buckley, An Arctic Nuclear-Weapon-Free Zone – Needed Now

It is time for “genuine global action” that integrates the economic, social, and environmental dimensions of development.

Michael Marien, Resilient People, Resilient Planet: A Future Worth Choosing — Review

We are still awaiting the genius who can cast the simple fact that trillions of dollars evaporated into thin air during the 2008 financial debacle into a comprehensive theory of money, wealth and economy.

Ivo Šlaus and Garry Jacobs, Recognizing Unrecognized Genius

We need a perspective that recognizes the value of Human Capital across all age groups and seeks to optimize the development and utilization of this precious resource for human welfare and well-being.

Orio Giarini, Counter-Aging in the Post-Industrial Society

Currently, our world is predominantly driven by laws that put profit first. So, how do we shift to a new way of being that prioritises intrinsic values?

Polly Higgins, Seeding Intrinsic Values

What is called for is a way of thinking committed to a universal principle of sustainability and marked by a supranational, intercultural and inter-generational orientation.

F. J. Radermacher, Double Factor Ten

As the awareness of sustainability and climate change challenges increases what individual nations can deliver, the way of change is itself changing.

Robert E. Horn, Rio+20

We have the capacity by the strength of our ideas to convert the approaching revolution into rapid social evolution. Our call is revolutionary in spirit, evolutionary in implementation.

Ian Johnson & Garry Jacobs, Crises and Opportunities

The Arctic can play a key role in global sustainability if the exploitation of resources such as oil, natural gas and water is conducted in a manner that will not damage its ecosystem.

Francesco Stipo et al, The Future of the Arctic

There is now an increasing interest in such outside-the-box thinking even in conservative institutions, which are aware that the “wealth” created by the current financial system is increasingly illusory.

Jakob von Uexkull, Money, Debt, People and Planet

The economic system depicted by neo-classical theory does not encompass the most important characteristics of the Earth system in which human activity plays an important role.

Robert Hoffman, On the Need for New Economic Foundations

It will take what it always takes—courageous and determined action by individuals in the face of strong opposition—to fight for our vision of a world without war.

James T. Ranney, World Peace through Law

Continued . . .
