

# An Ottawa process for Nukes?

ALYN WARE

In 1996, Canadian Foreign Minister Lloyd Axworthy invited 'like-minded States' to Ottawa to draft a treaty banning landmines—bypassing negotiations on a more limited landmines control regime that were bogged down in Geneva. The "Ottawa" Process achieved a landmines treaty in just over a year. Ten years later a similar process starting in Oslo achieved an international treaty banning cluster munitions, also in a relatively short time.

Meanwhile, the Conference on Disarmament, established as the primary United Nations forum for negotiating multilateral disarmament treaties and in particular nuclear disarmament, has been blocked and virtually inactive for 14 years. It has not even been able to commence negotiations on a treaty to ban the production of fissile (bomb-making) materials—despite the fact that most nuclear weapon states have large stockpiles and thus have stopped producing such materials already—or to undertake preparatory deliberations on any other nuclear disarmament steps. A key problem is that the CD requires consensus to agree on anything, which means that any member state can block a proposal they don't like. This veto power renders virtually meaningless the rhetoric of the nuclear weapon states supporting the vision of a nuclear-weapons-free world, and also their obligations under the nuclear Non-Proliferation Treaty to achieve it.

Some governments—Norway and Austria amongst them—have thus suggested that the consensus-based process in the Conference on Disarmament is a certain recipe for inaction—and that an Ottawa or Oslo process for nuclear weapons is now needed to kick-start a nuclear abolition process.

Up until recently the idea of such a process did not have much traction. Conventional wisdom held that progress on nuclear disarmament could only be achieved with the full agreement and participation of the states possessing nuclear weapons—and that the main role for the non-NWS was to sit on the side-lines and encourage the NWS to

take small disarmament steps that might one day lead to nuclear disarmament. Thus, the CD which includes all the states with nuclear weapons and all others that could possibly develop them, was seen as the only viable forum for multilateral nuclear disarmament negotiation, even if it has been going nowhere.

However, a number of recent developments have changed this equation.

Firstly, a number of high-level former states-people—most of them advocates of nuclear deterrence during their time in office—have released statements indicating that nuclear weapons no longer can provide the security that they did in the bipolar world of the 20<sup>th</sup> century and the risks of proliferation to additional states or to non-state actors (including terrorists) now make the possession of nuclear weapons more of a security risk than a benefit.

Then in April this year, President Obama released a Nuclear Posture Review which significantly reduced the role of nuclear weapons, highlighted non-nuclear means of developing regional security with US allies, gave assurances not to use nuclear weapons against non-nuclear states, and committed the US to a national research and development program to support the goal of a nuclear weapons free world.

This helped pave the way for a successful review conference of the Non-Proliferation Treaty in May, at which states parties (every country in the world except India, Pakistan, Israel and North Korea) agreed on a package of nuclear disarmament and nonproliferation steps and measures.

There was considerable media and political attention, rightly so, on the NPT agreement to hold a conference to establish a Middle East Zone Free of Nuclear Weapons and Other Weapons of Mass Destruction. Iran and a number of Arab countries had blocked the previous NPT review conference because of they felt there was a discriminatory approach calling for greater controls on civilian nuclear programs of their countries while no attention was being given to the nuclear arsenal already developed by Israel.

Less noticed, but probably just as significant, was the recognition in the final docu-

ment of the 2010 NPT review conference, agreed unanimously, that any use of nuclear weapons would have catastrophic humanitarian consequences, and the agreement that all states must comply with applicable international law, including international humanitarian law, at all times.

It was a similar application of international humanitarian law to landmines and cluster munitions that changed the political framework from one of negotiating (or trying to negotiate) small disarmament steps based on maintaining military security, to one of prohibition based on the illegitimacy of the weapons regardless of military 'necessity'.

The International Committee of Red Cross, pioneers of the laws prohibiting inhumane and indiscriminate actions in war, played a key role in the success of the Landmines and Cluster Munitions campaigns—and are now taking an influential role in advancing the illegitimacy of nuclear weapons, backed up by the International Court of Justice which determined in 1996 that the threat or use of nuclear weapons would generally be illegal.

The application of IHL to nuclear weapons opens up the possibility for States to start a prohibition process—regardless of whether or not the NWS join in the beginning—or are forced by the gathering momentum to join later. Such a process could include like-minded states negotiating a treaty prohibiting and criminalizing the threat and use of nuclear weapons, adding a protocol to the Statute of the International Criminal Court making it a crime under the statute to threaten or use nuclear weapons, and adopting national legislation prohibiting and criminalizing nuclear weapons—as New Zealand, Philippines, Austria and Mongolia have already done.

Further to this, the NPT final document agreed that: "All States need to make special efforts to establish the necessary framework to achieve and maintain a world without nuclear weapons" and noted in this context the proposal made by the United Nations Secretary-General for negotiations on a nuclear weapons convention or a framework of agreements. This is the green light for like-minded states to start an



Former foreign affairs minister Lloyd Axworthy.

Ottawa style process to start preparatory work and negotiations for nuclear abolition.

Like-minded governments can draw from the experience of the Ottawa and Oslo processes, as well as from the groundswell of support for a nuclear weapons convention coming from civil society.

Over 4000 mayors have joined the Mayors for Peace call for NWC negotiations. Parliaments and inter-parliamentary bodies around the world have adopted resolutions supporting the UNSG's plan and a nuclear weapons convention. These include the parliaments of Germany, Italy, the Canadian Senate and the Inter-Parliamentary Union, which represents over 150 parliaments including from most of the NATO countries. Canadian parliamentarians from all the political parties are now exploring a proposal for action in the House of Commons as requested by the Senate resolution and in light of a declaration by over 500 recipients of the Order of Canada endorsing a call for Canada to support the UNSG's plan and in particular a nuclear weapons convention.

Ottawa 1 achieved the Landmines Convention and started the process of eliminating these horrific and inhumane weapons. Ottawa 2 could create the turning point for abolishing the most destructive and destabilizing weapon ever—the effects of which the International Court of Justice said 'could not be contained in time or space'

*Alyn Ware is a New Zealander who is the global co-ordinator of the Parliamentarians for Nuclear Non-proliferation and Disarmament.*  
editor@embassymag.ca