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The Arms Trade Treaty Opens New Possibilities at the UN

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Abstract

On 2 April, 2013, the Arms Trade Treaty, which had been blocked for ten years in the consensus-bound Conference on Disarmament in Geneva, was put directly before the United Nations General Assembly, and was passed by a massive majority. This historic victory opens new possibilities for progress on other seemingly intractable issues. In particular, it gives hope that a Nuclear Weapons Convention might be adopted by a direct vote on the floor of the General Assembly. The adoption of the NWC, even if achieved against the bitter opposition of the nuclear weapon states, would make it clear that the world's peoples consider the threat of an all-destroying thermonuclear war to be completely unacceptable.

Other precedents can be found in the International Criminal Court and the Ottawa Land Mine Treaty, both of which were adopted despite the vehement opposition of militarily powerful states. The Arms Trade Treaty, the ICC and the Land Mine Treaty all represent great steps forward. Although they may function imperfectly because of powerful opposition, they make the question of legality clear. In time, world public opinion will force aggressor states to follow international law.

On April 2, 2013, a historic victory was won at the United Nations, and the world achieved its first treaty limiting international trade in arms. Work towards the Arms Trade Treaty (ATT) began in the Conference on Disarmament in Geneva, which requires a consensus for the adoption of any measure. Over the years, the consensus requirement has meant that no real progress in arms control measures has been made in Geneva, since a consensus among 193 nations is impossible to achieve.

To get around the blockade, British U.N. Ambassador Mark Lyall Grant sent the draft treaty to Secretary-General Ban Ki-moon and asked him on behalf of Mexico, Australia and a number of others to put the ATT to a swift vote in the General Assembly, and on Tuesday, April 3, it was adopted by a massive majority.

Among the people who have worked hardest for the ATT is Anna Macdonald, Head of Arms Control at Oxfam. The reason why Oxfam works so hard on this issue is that trade in small arms is a major cause of poverty and famine in the developing countries. On April 9, Anna Macdonald wrote:

“Thanks to the democratic process, international law will for the first time regulate the \$70 billion global arms trade. Had the process been launched in the

consensus-bound Conference on Disarmament in Geneva currently in its 12th year of meeting without even being able to agree an agenda, chances are it would never have left the starting blocks. Striving for consensus is, of course, sensible. The problem is that it can lead to a lowest-common-denominator approach. The balance of power shifts to those, often the minority, who oppose an issue, because all the effort goes into trying to persuade them not to bring everything to a shuddering halt. Tuesday, April 2, was a good day for the U.N. It showed that things can get done. It showed that the democratic process can work. And it set an important precedent. Does it make any difference, legally, that the treaty was adopted by vote, not consensus? No. It is the same text as on the final day of negotiations, and its legal status is the same as if it had been agreed by consensus. But it should give hope to those working on other seemingly intractable issues that you can change the rules of the game and make progress."

I think that the point made by Anna Macdonald is an enormously important one. The success achieved by moving discussion of the Arms Trade Treaty from the Conference on Disarmament to the UN General Assembly points the way to progress on many other issues, especially the adoption of a Nuclear Weapons Convention. In my opinion, it is highly desirable to make a motion for the adoption of a Nuclear Weapons Convention on the floor of the General Assembly, following exactly the same procedure as was followed with the ATT. If this is done, the NWC (a draft of which is already prepared) would certainly be adopted by a large majority.

It might be objected that the nuclear weapon states would be offended by this procedure, but I believe that they deserve to be offended, since the threat or use of nuclear weapons is illegal according to the 1996 ruling of the International Court of Justice, and in fact the threat or use of force in international relations is a violation of the UN Charter. The adoption of the NWC would make clear the will of the great majority of the world's peoples, who consider the enormous threat which nuclear war poses to human civilization and the biosphere to be completely unacceptable.

It is not only the ATT that forms a precedent, but also the International Criminal Court, whose establishment was vehemently opposed by several militarily powerful states. Nevertheless, the ICC was adopted because a majority of the peoples of the world believed it to be a step forward towards a stable, peaceful and just global society.

In 1998, in Rome, representatives of 120 countries signed a statute establishing the International Criminal Court, with jurisdiction over the crime of genocide, crimes against humanity, war crimes, and the crime of aggression.

Four years were to pass before the necessary ratifications were gathered, but by Thursday, April 11, 2002, 66 nations had ratified the Rome agreement, 6 more than the 60 needed to make the court permanent. It would be impossible to overstate the importance of the International Criminal Court. At last, international law acting on individuals has become a reality! The only effective and just way that international laws can act is to make individuals respon-

sible and punishable, since (in the words of Alexander Hamilton), "To coerce states is one of the maddest projects ever devised."

Although the ICC is in place, it has the defect that since it is opposed by powerful states, it functions very imperfectly. Should the Nuclear Weapons Convention be adopted by the UN General Assembly despite the opposition of the nuclear weapon states, it would have the same defect. It would function imperfectly because despite the support of the vast majority of the world's peoples, a few powerful opponents would remain.

"In the case of a Nuclear Weapons Convention, world public opinion would especially have great force."

Another precedent can be found in the Antipersonnel Land-Mine Convention, also known as the Ottawa Treaty. In 1991, six NGOs organized the International Campaign to Ban Landmines, and in 1996, the Canadian government launched the Ottawa process to ban landmines by hosting a meeting among like-minded anti-landmine states. A year later, in 1997, the Mine Ban Treaty was adopted and opened for signatures. In the same year, Jody Williams and the International Campaign to ban Landmines were jointly awarded the Nobel Peace Prize. After the 40th ratification of the Mine Ban Treaty in 1998, the treaty became binding international law on the 1st of March, 1999.

The adoption of a Nuclear Trade Treaty is a great step forward; the adoption of the ICC, although its operation is imperfect, is also a great step forward, and likewise, the Antipersonnel Land-Mine Convention is a great step forward. In my opinion, the adoption of a Nuclear Weapons Convention, even in the face of powerful opposition, would also be a great step forward. When the will of the majority of the world's peoples is clearly expressed in an international treaty, even if the treaty functions imperfectly, the question of legality is clear. Everyone can see which states are violating international law. In time, world public opinion will force the criminal states to conform to the law.

"I feel that the question may justifiably be put to the leading nuclear powers: by what right do they decide the fate of humanity? From Scandinavia to Latin America, from Europe and Africa to the Far East, the destiny of every man and woman is affected by their actions."

– Javier Pérez de Cuéllar

In the case of a Nuclear Weapons Convention, world public opinion would especially have great force. It is generally agreed that a full-scale nuclear war would have disastrous effects, not only on belligerent nations but also on neutral countries. Mr. Javier Pérez de Cuéllar, former Secretary-General of the United Nations, emphasized this point in one of his speeches:

"I feel", he said, "that the question may justifiably be put to the leading nuclear powers: by what right do they decide the fate of humanity? From Scandinavia

to Latin America, from Europe and Africa to the Far East, the destiny of every man and woman is affected by their actions. No one can expect to escape from the catastrophic consequences of a nuclear war on the fragile structure of this planet. ...”

“No ideological confrontation can be allowed to jeopardize the future of humanity. Nothing less is at stake: today’s decisions affect not only the present; they also put at risk succeeding generations. Like supreme arbiters, with our disputes of the moment, we threaten to cut off the future and to extinguish the lives of innocent millions yet unborn. There can be no greater arrogance. At the same time, the lives of all those who lived before us may be rendered meaningless; for we have the power to dissolve in a conflict of hours or minutes the entire work of civilization, with all the brilliant cultural heritage of humankind.”

“...In a nuclear age, decisions affecting war and peace cannot be left to military strategists or even to governments. They are indeed the responsibility of every man and woman. And it is therefore the responsibility of all of us... to break the cycle of mistrust and insecurity and to respond to humanity’s yearning for peace.”

The eloquent words of Javier Pérez de Cuéllar express the situation in which we now find ourselves: Accidental nuclear war, nuclear terrorism, insanity of a person in a position of power, or unintended escalation of a conflict, could at any moment plunge our beautiful world into a catastrophic thermonuclear war which might destroy not only human civilization but also much of the biosphere.

We are reminded that such a disaster could occur at any moment by the threat of an attack by Israel on Iran and by the threat of an all-destroying nuclear war started by the conflict in the Korean Peninsula. It is clear that if the peoples of the world do not act quickly to abolish nuclear weapons, neither we nor our children nor our grandchildren have much chance of survival.

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