INTERNATIONAL HUMANITARIAN LAW AND NUCLEAR WEAPONS

Examining the humanitarian approach to nuclear disarmament
The Nuclear Abolition Forum strives to foster debate on key legal, technical, institutional and political elements for achieving the prohibition and elimination of nuclear weapons under a Nuclear Weapons Convention or package of agreements, as well as the process to achieving this. To this end, the Forum offers a dedicated website and a periodical to facilitate dialogue between academics, governments, disarmament experts and NGOs on such elements. The Forum is a joint project of eight leading organizations on disarmament and nonproliferation issues.

For more information about Nuclear Abolition Forum, visit abolitionforum.org.
INTERNATIONAL HUMANITARIAN LAW AND NUCLEAR WEAPONS:
Examining the humanitarian approach to nuclear disarmament

Nuclear Abolition Forum · Issue No. 1

CONTRIBUTORS
John Burroughs, Nicholas Grief, Peter Weiss, Sameer Kanal/Bruce Blair,
Gro Nystuen, Randy Rydell, Malcolm Fraser and Peter Giugni

GUEST EDITOR
John Burroughs

OPENING REMARKS
Sergio Duarte

NUCLEAR ABOLITION FORUM
Dialogue on the Process to Achieve and Sustain
a Nuclear Weapons Free World
The United Nations and a Humanitarian Approach to Nuclear Disarmament

Randy Rydell

Do you imagine that political constitutions spring from a tree or rock and not from the disposition of citizens?

-- Plato

One often hears that the “genie” of nuclear weapons is out of its bottle, never to be returned. One also often hears that nuclear weapons “cannot be disinvented.” The great irony of these familiar *ipse dixit* is that they are closer to being true with respect to nuclear disarmament than to nuclear weapons.

Disarmament is not going away. Its legal, moral, and political foundations are becoming stronger, thanks in no small measure to the growing recognition in multilateral arenas of the humanitarian dimension of nuclear disarmament. The United Nations, including various parts of its multilateral disarmament machinery, has played key roles in this process and will likely continue to do so. How, and what roles, are discussed below.

**The Old Game of Disarmament**

First of all, nuclear disarmament is – and has long been – a goal officially recognized by all States. It was included in the UN General Assembly’s first resolution on 24 January 1946 (Resolution 1(I)). The goal of zero was thus clear in 1946 – it has long since become a widely held public expectation in international relations, as demonstrated in many ways.

In 1959, the General Assembly included nuclear disarmament as part of the more comprehensive goal of “general and complete disarmament under effective international control” (GCD in Resolution 1378), which the Assembly later declared (at its first Special Session on Disarmament in 1978) was the world community’s “ultimate goal,” with nuclear disarmament described as the highest priority.

References to GCD and nuclear disarmament are found in a dozen international treaties, including those creating five regional nuclear-weapon-free zones, and also the Nuclear Non-Proliferation Treaty (NPT).

Article VI of the NPT commits States Parties to “pursue negotiations in good faith” on nuclear disarmament (and on halting the nuclear arms race “at an early date”), a duty the International Court of Justice (ICJ) interpreted—in its landmark 1996 Advisory Opinion—as extending to the responsibility to bring such negotiations to a conclusion. This commitment to nuclear disarmament has also been reflected in each of the consensus final documents adopted at NPT Review Conferences, and echoed further in countless General Assembly resolutions of several decades. Individuals and groups from civil society throughout the world have also registered their Platonic “disposition” in support of disarmament and in many ways – perhaps best illustrated in the extensive networking underway among many such groups both inside and across national boundaries, a political role recognized by distinguished international commissions, including the WMD (Blix) Commission and the International (Evans/Kawaguchi) Commission on Nuclear Non-Proliferation and Disarmament. Some of these initiatives have resulted in international petitions containing millions of signatures.

Nuclear disarmament is therefore far from being the will-o’-the-wisp that its critics have long been claiming. Yet despite this support, over 20,000 nuc-
Nuclear weapons reportedly remain, with the exact number remaining unknown, which testifies to the limited transparency over existing arsenals. And while the idea of achieving nuclear disarmament has not been put back into its bottle, it has been re-born and, in some eyes, is in danger of mutating into a new species. It is often described today, especially by various officials and commentators in the media, and in research and academic communities, as a distant goal or vision, well over the horizon, or using another popular metaphor, the peak of a tall mountain, shrouded in mists.

The discourse on disarmament has also shifted in recent years to a chronic debate over what preconditions must be satisfied to make disarmament “possible.” Some of these make sense and are not at all opposed by serious proponents of disarmament – there is little disagreement, for example, that nuclear disarmament commitments must be binding, irreversible, transparent, universal, and verified. Yet other preconditions – including world peace, “solving the problem of war,” resolving all regional disputes, ending all proliferation and terrorist threats, and even achieving world government – clearly have the thinly-veiled purpose of simply postponing disarmament indefinitely, as other goals displace disarmament as a priority.

The dictum that “stability and order” are necessary preconditions for disarmament ignores the contribution that disarmament makes in strengthening international peace and security, through confidence-building, dispelling mistrust, lessening risks of conflict escalation, eliminating the danger of nuclear war, encouraging the peaceful settlement of disputes, strengthening the legitimacy (and effectiveness) of non-proliferation efforts, and discouraging the threat or use of force – all tied in various ways to the UN Charter. Indeed, the failure to achieve nuclear disarmament—or at least some tangible progress toward it—would surely jeopardize prospects for achieving international “stability and order.”

For serious advocates of nuclear disarmament, the great challenges ahead relate to overcoming chronic political, institutional, and psychological obstacles in achieving this goal. Alva Myrdal used to decry what she called the “game of disarmament,” which she viewed as being played more to advance national policy objectives rather than to achieve a goal shared by the world community overall. This old game persists.

**The Game Changers**

One of the most obvious potential “game changers” for disarmament would be the demonstration of some decisive leadership in this field by the nuclear-weapon States. While there have been no treaty negotiations on nuclear disarmament per se, the Soviet Union and the United States made nuclear disarmament proposals in the United Nations in 1946 – the Gromyko and Baruch Plans. They also agreed on the McCloy/Zorin joint statement of 1961, outlining steps for achieving general and complete disarmament. Since then, however, nuclear arms talks between the two States have consisted only of incremental steps in nuclear arms control, typically featuring reductions on deployments without international verification, leaving aside issues relating to the disposition of non-deployed weapons. Britain, China, and France have taken various disarmament-related steps, which have included (if not universally amongst them) halting nuclear tests, shutting down nuclear test sites and fissile material production facilities, eliminating certain delivery systems, declaring existing stockpiles of weapons and fissile materials, and other voluntary gestures short of negotiations on disarmament.
While leadership from the “top-down” has some potential, it is also inadequate as a foundation for progress in achieving nuclear disarmament, given that all States possessing such weapons are also modernizing their arsenals and pursuing long-term plans to develop new weapons or delivery systems. The doctrine of nuclear deterrence—which Secretary-General Ban Ki-moon has called “contagious”—is now being implemented in various forms by nine States and many more if one includes States that are members of nuclear alliances. More people actually today live in States that have either the bomb or a nuclear umbrella than in States that are fully nuclear-weapon-free.

Possessor States also maintain that it is legal to use such weapons (China and India oppose first use but have not ruled out use in response to a nuclear attack) and most oppose the negotiation of a nuclear weapons convention, with the exceptions of China, India, Pakistan, and the Democratic People’s Republic of Korea. Yet if such weapons are legal to use, effective in guaranteeing national security, and recognized symbols of power and status among a majority of the world’s population, such claims are arguably more conducive to the evolution of an unwelcome norm of possession, than to the achievement of abolition. This is why efforts to achieve nuclear disarmament will have to rely upon more than the examples being set by the nuclear-weapon States.

Game-changing leadership will in all likelihood require sustained efforts at all three levels of international society—top-down involving the existing nuclear-weapon States, bottom-up from sustained pressure from civil society, and what might be called “outside-in” or diplomatic initiatives from non-nuclear-weapon States, specifically that part of the world diplomatic community that seeks to eliminate nuclear weapons. At all of these levels—it will take considerable political will to overcome political won’t.

In the years ahead, the nuclear-weapon States will likely continue to consult amongst themselves in plurilateral meetings to discuss the implementation of their disarmament-related commitments made at the 2010 NPT Review Conference, and they have already met twice as of the time of this essay. They share an interest in gaining international recognition and legitimacy for their individual and collective efforts, and they also wish for disarmament and non-proliferation to be pursued by all States. For these reasons, they have a clear interest in cooperating with activities that are underway in the United Nations, the world’s central meeting place, as well as at NPT Review Conferences (which are customarily held at UN headquarters).

The non-nuclear-weapon States have their own reasons for advancing disarmament goals both at the UN and throughout the NPT review process, with the latter being a potentially valuable tool for maintaining accountability in fulfilling disarmament commitments. Many of these States are small in size and lack large military establishments, and hence their security must rely upon globally-recognized legal and political restraints on the use of force. Individuals and groups in civil society also share an interest in building support for their initiatives at the United Nations. This interest was amply demonstrated by the efforts by civil society groups to draft (and update) a model nuclear weapons convention, which the Secretary-General has circulated to all Member States at the request of Malaysia and Costa Rica.

Since the ICJ issued its Advisory Opinion in 1996, the General Assembly has adopted annual resolutions calling on all States to commence multilateral negotiations leading to the early conclusion of a
nuclear weapons convention; last year, Resolution 65/76 gained the support of 133 States, the most ever. The resolution draws heavily, but not exclusively, on the humanitarian theme, noting in its Preamble that the continuing existence of such weapons pose “a threat to humanity and all life on Earth.” Last year, twelve General Assembly resolutions dealing mostly with nuclear weapons were adopted that identified “humanity” or “humanitarian” aims as their goals. The narrative summary of the 2010 NPT Review Conference and its consensus Action Plan also contained references to the “catastrophic humanitarian consequences” of any use of nuclear weapons, and the Action plan reaffirmed the need for all States at all times to comply with applicable international law, including international humanitarian law – a view that the General Assembly specifically welcomed in Resolution 65/59.10

The optimal configuration of game-changers – the “perfect storm” – would be a coordinated effort involving contributions from all three categories of players: some or all of the nuclear-weapon States (and other possessor States), geographically diverse members of the diplomatic community including middle-power States and States both with and without nuclear umbrellas, and civil society. For purposes of achieving universality and full legitimacy, such efforts should also be centred at the United Nations.

**CHANGING THE GAME**

Writing between the two World Wars, Salvador de Madariaga – who worked in the disarmament office of the League of Nations Secretariat – stated “the problem of disarmament is not the problem of disarmament. It really is the problem of the organization of the World Community.”11 States are increasingly recognizing that achieving humanitarian goals is part of the task of organizing the world community.

Indeed, there are many new trends in organizing the world community that have the potential to change the way the game of disarmament is played, if not to determine its outcome. Many, but not all, of these are centred in activities at the United Nations. They relate to the rule of law, the evolution of international humanitarian law, demands to respect human rights, growing international opposition to claims that nuclear weapons are legal to use, and the democratic revolution now sweeping not just across the Arab world, but throughout the world community.

While the term “rule of law” does not appear in the Charter, the General Assembly and several Secretaries-General have placed great emphasis on it as a key focus of the United Nations, if not part of its very raison d’être.12 Speaking at Harvard on 22 October 2008, Secretary-General Ban Ki-moon said, “The United Nations has long stood for the rule of law and disarmament. Yet it also stands for the rule of law in disarmament, which we advance through our various statements, resolutions, and educational efforts.”13 Two days later, and referencing specifically the rule of law in disarmament, he announced his five-point nuclear disarmament proposal, which included an emphasis on the importance of pursuing a nuclear weapons convention.14

Though the term “rule of law” is not officially defined, for the purposes of this essay it refers to the conduct of international relations within a framework of norms that States recognize as binding.15 At the international level, the fundamental principles of the UN Charter – including the obligations to solve disputes peacefully and not to engage in the threat or use of force – are essential parts of that rule of law. Respect for adhering to treaty
commitments (*pacta sunt servanda*) offers another illustration, as does the pursuit of universal membership in multilateral treaties. Customary international law and peremptory norms (*jus cogens*) make their own contributions to this overall legal architecture called the rule of law. Growing international recognition of the importance of international humanitarian law and human rights law, as germane to the challenge of achieving nuclear disarmament, are important parts of these evolving efforts to bring the rule of law to disarmament.

In recent years, the General Assembly has adopted (without votes) several resolutions on “The rule of law at the national and international levels.” The most recent, Resolution 65/32, reaffirmed the Assembly’s commitment to the purposes and principles of the Charter and international law, which together are “indispensable foundations of a more peaceful, prosperous and just world.” Earlier, the General Assembly adopted several resolutions addressing the “Consideration of principles of international law concerning friendly relations and cooperation among States in accordance with the Charter of the United Nations.” Resolution 1815 (1962) placed considerable emphasis on the importance of strengthening “the rule of law among nations,” adding that it is “essential” that “the arms race be eliminated and general and complete disarmament achieved under effective international control.” The resolution also recalled the General Assembly’s authority under the Charter (Article 13) to make recommendations on the progressive development and codification of international law—roles performed at the General Assembly largely by the International Law Commission (ILC). At the request of the General Assembly, the ILC could one day perform such functions with respect to the status of nuclear weapons in international humanitarian and human rights law.

There is little doubt that a large segment of the world community believes that any use of nuclear weapons would be contrary to international humanitarian law. The ICJ’s 1996 Advisory Opinion reaffirmed that such law must be observed at all times, even in exercising the right of self defence. The International Committee of the Red Cross, which has a special responsibility in the field of international humanitarian law, has repeatedly voiced its concerns that the use of nuclear weapons would be incompatible with that law.

In terms of the operational implications of that law, Nina Tannenwald has argued that there already exists in the United States a “nuclear taboo” against any use of such weapons, a taboo based on the horrific, indiscriminate effects resulting from any such use. Charles Moxley has produced an exhaustive analysis of US military field manuals, which he found reflect an awareness of the legal obligation to comply with international humanitarian law, even in considering the use of nuclear weapons. A number of distinguished judges, lawyers, law professors, officials and former diplomats, parliamentarians, civil society organizations and individuals have endorsed the 11 February 2011 Vancouver Declaration on “Law’s Imperative for the Urgent Achievement of a Nuclear-Weapon-Free World.”

The General Assembly has a long history of declaring the use of nuclear weapons against international humanitarian law, starting most explicitly with the adoption of Resolution 1653 of 1961, which declared that any such use would be “contrary to the spirit, letter and aims of the United Nations, and, as such, a direct violation of the Charter” while also being “contrary to the rules of international law and to the laws of humanity.” Four General Assembly resolutions have declared any use of nuclear weapons as a crime against humanity, and 35 ad-
ditional resolutions have re-affirmed or recalled previous non-use resolutions.

This persistent and growing interest worldwide in ensuring that nuclear weapons are subject to the rule of law, the constraints of international humanitarian law, and the fundamental norms of human rights, has not been due solely to the ICJ or the law profession. It has occurred largely because of sustained work by civil society groups and individuals worldwide to advance these aims in a variety of international settings, including the United Nations, national parliaments, and regional organizations. As the role of these civil society groups continues to expand – assisted by technological innovations that have made international communications both easier and often cost-free – a “democratic revolution” has been occurring at the United Nations. The expansion of the UN membership in the 1950s and 1960s led to an expansion of the UN disarmament machinery, including the Conference on Disarmament in Geneva. Fully in accordance with the Charter’s principle of sovereign equality, small and middle-power States have – individually and collectively – made their voices heard and have actively participated in the evolving process of developing and implementing global disarmament norms, with Switzerland, Norway, Malaysia, Indonesia, and Costa Rica often leading the way.

A key function of the United Nations is to establish international norms that are regarded as legitimate. This legitimacy is due both to procedural reasons – in ensuring that each State has a right to participate in the development of the relevant norms – and to the substantive fairness of such norms (e.g., in excluding double standards). Legitimacy is, however, more than just a legal concept. Inis Claude long ago identified “collective legitimation” as a key political function of the United Nations, saying “the development of the United Nations as custodian of collective legitimacy is an important political phenomenon of our time.” More recently, the Swiss Government has funded an exceptional study on the subject of delegitimizing nuclear weapons, which relies heavily upon the constraints found in international humanitarian law.

**Winning the Game**

When nuclear disarmament is finally achieved, it is unlikely that any one country, factor, variable, or political or legal tactic would deserve exclusive credit for producing such a result.

Its achievement, however, will likely be substantially influenced by evolving trends in the international rule of law, including both international humanitarian and human rights law, and the outcome of efforts to outlaw nuclear weapons through the negotiation of a multilateral nuclear weapons convention (or a framework of separate, mutually reinforcing instruments) as Secretary-General Ban Ki-moon has proposed.

And as the rule of law grows at the international level, so too will it evolve at the level of national legal systems. Perhaps one of the greatest unknowns today about the future of international nuclear disarmament efforts are the persisting uncertainties over when, and how, agreed legal norms will become rooted in national legal and political systems. A mismatch persists between solemn international disarmament (negotiating) commitments and the paucity of national laws, institutions (e.g. disarmament agencies), legislative oversight committees with disarmament mandates, concrete national plans and timetables for achieving nuclear disarmament, and budget allocations and executive regulations – and there are no shortcuts to overcoming these gaps other than through the domestic political process within States.
To this extent, the goal for nuclear disarmament should not be the end of sovereign States and their subordination to some form of world government\textsuperscript{29}, but to rehabilitate the ends of States, by bringing those ends into harmony with international commitments. One possible avenue for progress in years ahead might be the growth of linkages, communication, and coordination between parallel parts of governments – what Anne-Marie Slaughter has called “transgovernmentalism,”\textsuperscript{30} a term she has not applied to disarmament, but could one day become quite relevant to its achievement. Elsewhere, she has argued, “the future of international law lies in its ability to affect, influence, bolster, backstop, and even mandate specific actors, actions, and outcome[s] in domestic politics.”\textsuperscript{31}

Approaches to disarmament based on humanitarian themes can help in bridging this gap. The goal of such initiatives is to serve the common interest of humanity, rather than to advance the topical foreign or defence policy interests of specific States – or, more precisely, to advance State interests through advancing the common interest. Humanitarian approaches to disarmament work from the logic of positive sum games, offering benefits for everyone, in contrast to the alternative zero-sum game of competitive power politics in a world of nation-state winners and losers. Humanitarian approaches to disarmament thus offer the potential to appeal to a wider set of audiences throughout society, and as this political foundation continues to expand, so too will the possibilities for reforms in domestic legal and political organizations that will bring domestic laws and policies more into line with international commitments.

**Remembering the Purpose of the Game**

Yet there are problems with such approaches as well. The first consist of weaknesses in enforcement – who determines when the “norm of disarmament” is violated, and how will violators be held accountable in law?

The second is associated with the promotion of various “non-use” initiatives that shift the emphasis from eliminating weapons to one of simply reducing their risk of use. The Evans/Kawaguchi report and several non-governmental organizations, for example, have proposed a “sole purpose” criterion that would hold that the only function of nuclear weapons is to deter nuclear attacks. A problem with that approach is that if it is not implemented as inherent part of a disarmament process, it becomes yet another rationale for possession, for the legality of use, and for the military utility of use. Pledges of non-use against non-nuclear-weapons States and of no-first-use, when not part of an ongoing process of disarmament, offer as a goal not the peace and security of a world without nuclear weapons, but an illusory and highly precarious stability in a world with nuclear weapons. Possessor states and those covered by nuclear umbrellas—representing most of the world’s population—would not likely join any non-use treaty.

A humanitarian approach based on non-use therefore would probably best be pursued not in isolation but as a clause in a nuclear weapons convention, as non-use was handled by the Chemical Weapons Convention and, indirectly, by the Biological Weapons Convention. The successful efforts to negotiate treaties (though still not universal in membership) on anti-personnel landmines and cluster munitions did not seek merely to limit the use of such weapons – non-use was explicitly incorporated as a part of a disarmament (or non-armament) commitment, and this seems a sensible approach for nuclear weapons as well. Based on humanitarian law principles, and the evolving rule of law in disarmament, the only legitimate “sole purpose” of nuclear weapons (and other WMD)
that merits global support is the purpose served by their elimination.

Finally, a humanitarian approach to nuclear disarmament should also recognize the need for parallel efforts – to eliminate other WMD, reduce military spending, limit conventional weapons arsenals and transfers, and strengthen mechanisms for promoting the peaceful settlement of disputes. These are all goals long associated with “general and complete disarmament under effective international control.” A world plagued by large-scale wars involving conventional arms or the use of other WMD would not be a desirable legacy of achieving a “world free of nuclear weapons.”

THE GAMES TO COME

It is clear that the United Nations has served as an indispensable arena for the world community to advance its common goals in disarmament, which in recent years have included the advancement of humanitarian norms against the use and possession of nuclear weapons.

In all likelihood, Member States will continue to pursue these goals in the key institutions of the UN disarmament machinery – the UN Disarmament Commission, the First Committee of the General Assembly, and the Conference on Disarmament. The Secretary-General and Secretariat will continue their efforts to assist this process, and additional contributions will come from the UN Institute for Disarmament Research and the Secretary-General’s Advisory Board on Disarmament Matters.

In the years ahead, there may be additional contributions from other multilateral arenas, in addition to constructive regional initiatives such as the pursuit of a WMD-free zone in the Middle East, and the establishment of new nuclear-weapon-free zones (e.g. in the Arctic, Central Europe, East Asia or, one day, even South Asia). All of these would complement the common purposes shared by the existing regional nuclear-weapon-free zones in Latin America and the Caribbean, Africa, the South Pacific, Southeast Asia, and Central Asia.

Given some persisting disagreements in the world community over the extent that humanitarian law restricts the use of nuclear weapons, and the existence of various gaps in the law (as identified in the 1996 ICJ Advisory Opinion), there may well be a strong case for the General Assembly to consider exercising its mandate under Article 13 of the Charter with respect to the codification and progressive development of international law. It could ask the ILC to undertake a study, appoint a Special Rapporteur, or establish a working group on this issue, perhaps even with the aim of drafting a treaty to clarify the law.

Consistent with humanitarian objectives, the UN Security Council could, as Secretary-General Ban Ki-moon has proposed,32 revive its Charter-based Military Staff Committee to consider plans for the maintenance of international peace and security in a world free of nuclear weapons. The Council has already adopted Resolution 1887 (2009), which called upon all States—not just those party to the NPT—to undertake negotiations in good faith on nuclear disarmament. It could follow-up on this resolution by holding annual high-level meetings or summits specifically on disarmament issues. It could consider adopting a declaration of a common intention to “seek to achieve” nuclear disarmament by a specific future date, which would respond at least in part to perennial calls from the Non-Aligned Movement for a time-bound plan for getting to zero. It could go beyond its past Presidential Statements and resolutions by declaring that weapons of mass destruction per se—not just their proliferation—constitute threats to international peace.
and security. And it could adopt new, unambiguous security assurances to non-nuclear-weapon States – preferably unconditional, to avoid making new nuclear threats that only create new incentives for proliferation.

With respect to the UN’s efforts to advance human rights, these are centred on the work of the Economic and Social Council (ECOSOC), the Human Rights Council, the General Assembly’s Third Committee, the Office of the High Commissioner for Human Rights, and nine treaty-based committees, in addition to the work of numerous other UN entities that directly or indirectly promote human rights. Some of these institutions have shown interest in advancing disarmament goals. The Human Rights Committee (which oversees implementation of the international Covenant on Civil and Political Rights) reported in 1985 that threats posed by nuclear weapons were “among the greatest threats to the right to life which confront mankind today.” In 2002, the UN’s former Sub-Commission on the Promotion and Protection of Human Rights produced a detailed working paper written by a Mauritian Supreme Court judge on the human rights impacts of WMD. Yet it is also true that the UN human rights and disarmament communities work separately at the UN.

There are many possible options available to deepen that cooperation. The Human Rights Council has a “think tank” Advisory Committee that could prepare recommendations for the Council on this issue, as could ECOSOC, possibly for the initiation of studies or the convening of special meetings to address disarmament-related issues. The First and Third Committees of the General Assembly could jointly consider a resolution—or parallel resolutions—on disarmament and human rights. In the Secretariat, the Office of the High Commissioner for Human Rights and the Office for Disarmament Affairs could also consider various joint initiatives—statements, editorials, symposia, publications, films, etc. Other efforts to explore the disarmament/human rights theme could be pursued within the treaty-based human rights committees, including the Committee on Economic, Social, and Cultural Rights or possibly even the Committee on Rights of the Child.

Other options could include efforts to advance international humanitarian law through new efforts by the International Committee of the Red Cross, which could adopt an official resolution, based on international humanitarian law, opposing both the existence and threat of use of nuclear weapons. There might be some merit in considering a fourth Protocol additional to the Geneva Convention of 1949, which would address the rights of citizens not to be subject to threats of use of nuclear weapons.

Non-governmental organizations can also be expected to continue their efforts to strengthen international humanitarian law against the use or threat of use of nuclear weapons. Such efforts might include the promotion of a nuclear weapons convention, the progressive integration of disarmament into national legal and political laws and institutions, encouragement of transgovernmental cooperation and Track Two initiatives to help raise disarmament as a priority in national bureaucracies, encouragement of initiatives from national law associations, and an expansion of education initiatives and engagement with the news and social media.

So while the United Nations will not be the only arena for advancing disarmament, and while international humanitarian law will not be the only substantive reason for pursuing this goal—morality and self-interest apply as well—the UN will likely re-
main the world’s central arena for establishing global disarmament norms that are universally regarded as legitimate, both procedurally and substantively. To this extent, even diehard “realists” must acknowledge that the United Nations is both useful and is here to stay, and so is a humanitarian approach to nuclear disarmament.

The last word on this subject should come from Jayantha Dhanapala, who said,

Disarmament is pre-eminently a humanitarian endeavour for the protection of the human rights of people and their survival. We have to see the campaign for nuclear disarmament as analogous to the campaigns such as those against slavery, for gender equality and for the abolition of child labour. It will be a hard, uphill struggle but, eventually, we shall overcome.

1 Dr. Randy Rydell is the Senior Political Affairs Officer in the Office of Mr. Sergio Duarte, the High Representative for Disarmament Affairs at the United Nations and previously served as an adviser to Under-Secretary-General Jayantha Dhanapala and his successors. He was Secretary of the Secretary-General’s Advisory Board on Disarmament Matters, Senior Counsellor and Report Director of the Weapons of Mass Destruction Commission, Senior Fellow at the Arms Control Association in Washington, D.C, and has been a Visiting Lecturer at Princeton University. He also worked at the Lawrence Livermore National Laboratory, as well as for United States Senator John Glenn on the Committee on Governmental Affairs, and was an international political analyst studying the global spread of nuclear weapons. The views expressed in this article are the author’s and do not necessarily reflect those of the United Nations.


5 For a comprehensive history of such efforts, see Lawrence S. Wittner, The Struggle Against the Bomb, three volumes (Stanford: Stanford University Press, 1993, 1997, and 2003).


8 Statement at EastWest Institute nuclear disarmament meeting, SG/SM/11881, United Nations, 24 October 2008.

9 The text was circulated as UN General Assembly document A/62/650, 18 January 2008.

10 That resolution—co-sponsored by the seven-nation New Agenda Coalition—was adopted on 8 December 2010 by a vote of 173-5-5. The nuclear-weapon States were deeply split, with China and Russia voting in favour, France and the United States voting against, and the United Kingdom abstaining.

11 Salvador de Madariaga, Disarmament (NY: Coward-McCann, 1929), p. 56.


15 Another dimension of the “rule of law” of great interest at the United Nations will not be discussed in this essay, namely, that pertaining to the maintenance or re-establishment of domestic legal systems of States, as for example following the end of civil conflicts.
17 Resolution 1815 (XVII), 18 December 1962. Also see Resolution 1966 (XVIII) of 16 December 1963; Resolution 2103 (XX) of 20 December 1965; Resolution 2181 (XXI) of 12 December 1966; Resolution 2327 (XXII) of 18 December 1967; Resolution 2463 (XXIII) of 20 December 1968; and the Declaration of Principles in Resolution 2625 (XXV) of 24 October 1970.
34 For further information, see http://www.un.org/en/rights/.
37 Peter Weiss and John Burroughs, op. cit., note 34, p. 25.