

A Transformational Moment in Nuclear & International Affairs?

Posted by Joan Russow

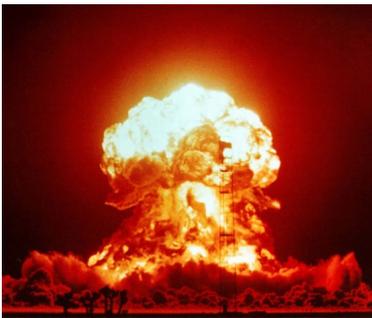
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By [John Burrough](#) mail

<http://www.ipsnews.net/2017/04/a-transformational-moment-in-nuclear-international-affairs>

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Credit: UN Photo

NEW YORK, Apr 3 2017 (IPS) - Is a paradigm shift now underway on nuclear weapons at the United Nations? That was the question posed as about 130 nations gathered this past week to begin negotiations on a treaty prohibiting nuclear weapons, leading to their total elimination. The treaty would prohibit development, possession and use of nuclear weapons, but would not contain detailed provisions relating to verified dismantlement of nuclear arsenals and governance of a world free of nuclear arms.

This is the first multilateral negotiation on nuclear weapons since the Comprehensive Nuclear-Test-Ban Treaty (CTBT) was adopted in 1996. It is also the first ever such negotiation relating to the global elimination of nuclear arms, despite the fact that the first UN General Assembly resolution, in 1946, called for the elimination of weapons of mass destruction.

The hope of the nations leading the negotiations, including Costa Rica, whose ambassador, Elayne Whyte, is president of the negotiating conference, is that the second session, to be held from June 15 to July 7, will succeed in adopting a treaty. The idea is to strike while the iron is hot.

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What makes the initiative at first hard to grasp is that it involves countries whose acquisition of nuclear weapons is already barred by the Nuclear Non-Proliferation Treaty (NPT) and by regional nuclear-weapon-free zone treaties.

The nuclear-armed states (United States, United Kingdom, France, Russia, China, India, Pakistan, North Korea, Israel) are not participating, nor are almost all states in military alliances with the United States. The aim, nonetheless, is to set a global standard stigmatizing nuclear arms and laying the foundation for their universal and permanent elimination.

The initiative grew out of three conferences on the humanitarian impact of nuclear explosions organized by the governments of Norway, Austria, and Mexico, in 2013 and 2014. The straightforward message is that the consequences of use of nuclear weapons are morally unacceptable and also incompatible with international humanitarian law barring the use of weapons causing unnecessary suffering and indiscriminate harm.

Therefore, nuclear weapons should be explicitly prohibited by treaty, as have other weapons including biological weapons, chemical weapons, landmines, and cluster munitions. The initiative also builds upon the regional nuclear weapon free zone treaties, to which most of the negotiating states belong.

The Trump Administration has carried forward the Obama Administration's policy of opposing the negotiations. An alarming related development is that Christopher Ford, a former US Special Representative for Nonproliferation now serving on the National Security Council, has stated that the administration is reviewing "whether or not the goal of a world without nuclear weapons is in fact a realistic objective, especially in the near to medium term." Ford, a lawyer, knows very well that the United States is legally bound by Article VI of the NPT to pursue in good faith negotiations on effective measures relating to nuclear disarmament.

A common objection made by U.S. allies is that a nuclear ban treaty will undermine the NPT. Participating states reply: How? We are negotiating an effective measure relating to nuclear disarmament as Article VI requires of all NPT states parties.

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The first week of negotiations revealed a broad convergence in favor of a relatively simple prohibition treaty. Only a few countries advocated negotiation in this forum of a comprehensive convention addressing all aspects of nuclear disarmament. Many other countries see negotiation of a comprehensive convention as a step to be taken later, when at least some nuclear-armed states are ready to participate.

There remain significant issues to be resolved concerning the provisions of a prohibition treaty, including issues relating to threat of use of nuclear arms and to testing. My organization, the International Association of Lawyers Against Nuclear Arms (IALANA), advocates for inclusion of a prohibition of threat of use.

In our view, that would confirm and specify existing international law and, as Chile and South Africa also said, help to delegitimize nuclear deterrence. An opposing view is that the illegality of threat of use would be implicit in the prohibitions of possession and use and is already adequately covered by the UN Charter.

IALANA also calls for the treaty to prohibit design and testing of nuclear weapons, capturing a whole suite of activities from computer simulations to explosive testing. The treaty will help set the template for future disarmament agreements, and therefore should be reasonably comprehensive.

Many governments support the inclusion of a prohibition of at least testing. Some governments maintain, however, that it is captured by the prohibition of development and note that explosive testing is banned by the yet to enter into force CTBT.

A knotty issue is how to handle possible later participation in the treaty by nuclear-armed states. The basic options are to require that they denuclearize prior to joining the treaty, or to provide that they may join the treaty if they have accepted a time-bound obligation verifiably to eliminate their arsenal. Participation by nuclear-armed states in a ban treaty in the near term is entirely theoretical, and may not happen even when they do decide to eliminate their arsenals. Still, negotiators want to make it clear that all states are welcome and encouraged to join the treaty.

The initiative and the negotiations have been marked by close cooperation between

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governments and civil society, notably the International Campaign to Abolish Nuclear Weapons, and with the International Committee of the Red Cross. Civil society was given ample opportunity to comment throughout the first week.

Such cooperation has never before occurred in the nuclear sphere. Also noteworthy is that the negotiations are taking place in a UN process over the opposition of the permanent five members of the Security Council, perhaps a harbinger of democratization of the United Nations.

Diplomats and civil society organizations involved in the negotiations are clearly energized, even passionate, and determined to work constructively. If all goes well, members of a ban treaty, working together with civil society, will become a potent collective actor that will transform nuclear and international affairs for the better.