

Securing our Survival (SOS)

The Case for a Nuclear Weapons Convention

**Including the Updated Model Convention on the Prohibition of the
Development, Testing, Production, Stockpiling, Transfer, Use and
Threat of Use of Nuclear Weapons and on their Elimination**

**With Commentary and Responses
Foreword by Judge C.G. Weeramantry**

**International Association of Lawyers Against Nuclear Arms
International Network of Engineers and Scientists Against Proliferation
International Physicians for the Prevention of Nuclear War**

The model Nuclear Weapons Convention (NWC) presented in this book is a draft model treaty for the phased elimination of nuclear weapons. It is a revised edition of the model NWC submitted by Costa Rica to the United Nations Secretary-General as a discussion draft, UN Doc. A/C.1/52/7 (1997), and contained in *Security and Survival: The Case for a Nuclear Weapons Convention* (1999).

The book and the model NWC are non-governmental initiatives to further the goal of nuclear weapons abolition. The commentary and revisions to the model reflect governmental and non-governmental responses to the 1997 and 1999 versions.

Drafters and consultants to the model NWC are listed on the inside back cover. Sections 1,3, and 4 were authored by the International Association of Lawyers Against Nuclear Arms, the International Network of Engineers and Scientists Against Proliferation, and International Physicians for the Prevention of Nuclear War, except where otherwise noted. The authors and contributors do not necessarily share all of the views presented here.

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International Physicians for the Prevention of Nuclear War

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Where the mind is without fear and the head is held high;
Where knowledge is free;
Where the world has not been broken up into fragments by narrow domestic walls;
Where words come out from the depth of truth;
Where tireless striving stretches its arms towards perfection;
Where the clear stream of reason has not lost its way into the dreary desert sand of dead habit;
Where the mind is led forward into ever-widening thought and action
Into that heaven of freedom, let my country awake.

- Rabindranath Tagore

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Foreword: Judge C.G. Weeramantry

The start of a new century invariably gives rise to universal attention to ways in which that century can be made a century of peace. So it was at the dawn of the 20th Century when the great Peace Conference of 1899 sought ways and means of achieving a century of peace. Those hopes were shattered and that century became the bloodiest century in human history.

Yet humanity survived to see the dawn of another century - the first century in human history that has dawned with humanity having the power to destroy itself. That century instead of commencing on a note of peace, has commenced on a note of war. We will not be granted another century to put our house in order. We must do so in this century or all civilizations will perish. That is the urgency of the situation. But the urgency is not perceived as widely as it should be. Certainly it has not seeped through into the corridors of power.

The principal agenda item in our program for human survival in this 21st Century must be the elimination of nuclear weapons, especially because resort to the nuclear weapon is becoming easier year by year, month by month and even day by day.

Why? There are at least fifteen different reasons why the dangers of the use of nuclear weapons by some one, some where, some time is growing ever closer. Increasing knowledge of how to construct a bomb, increasing availability of the materials with which to make a bomb, increasing numbers of people desperate enough to use the bomb, lack of inventories of fissile materials, lack of the international resolve to ban the bomb and banish it from the arsenals of the world – all these are factors which bring the use of the bomb ever closer to us.

Our desired objective of eliminating the bomb can only be achieved through a Convention subscribed to by all powers, nuclears and non-nuclears alike. The nuclears cannot expect the non-nuclears to pursue a policy of abstention while they themselves desire to keep the bomb as a means of projecting their power and might.

The bomb clearly stands categorically condemned by upwards of a dozen basic principles of international law. The International Court of Justice in its Advisory Opinion on the Legality of the Threat or Use of Nuclear Weapons (1996) has unanimously held that “there exists an obligation to pursue in good faith and bring to a conclusion negotiations leading to nuclear disarmament in all its aspects under strict and effective international control.”

There cannot be one law for the nuclear powers and another law for the non-nuclear powers. By the very principles of law and justice which the powerful states seek to uphold, the nuclear weapon in any shape or form stands condemned. No policeman can enforce a law which the policeman himself openly violates.

At the close of the 19th Century all the members of the world community agreed that even weapons such as the dum dum bullet which caused unnecessary suffering through its explosion when entering the victim’s body were too cruel to be used in warfare among civilised nations. Civilised nations today still adhere to these principles and will considerately refrain from using dum dum bullets, but will argue that the nuclear weapon does not fall into this category.

A school child of ten would see the absurdity of such a position but the great powers seem to have difficulty in perceiving this absurdity. A visitor from outer space might well wonder on what logical basis we construct the national policies on which the future of humanity depends.

Here shortly stated are the reasons why a case for a Nuclear Weapons Convention is unassailable. It is an SOS for the whole human race. Nations large and small, rich and poor, strong and weak must all agree on the unassailable logic of the proposition that such a Convention is perhaps the most imperative need of our time. I have much pleasure in providing a Foreword to a book that highlights the need for such a Convention.

All creatures great and small are instilled with the instinct for self preservation and when life threatening dangers loom large and clear within their horizon they act instinctively to avoid it. Humans alone seem to react differently despite this threat to their very survival which every child can perceive.

With the nuclear weapons in front of us we only face destruction and annihilation. With the nuclear weapon behind us we can all look forward to reaching that sunlit plateau of peace and justice, which has been the dream of humanity throughout the ages.

Can there be any choice?

Preface to the second edition

Ten years ago, experts in law, science, disarmament and negotiation came together to draft a Model Nuclear Weapons Convention (Model NWC), a draft treaty for the abolition of nuclear weapons. Their purpose was to determine whether nuclear disarmament is possible by exploring the legal, technical and political requirements for a nuclear-weapons-free world, taking into consideration the security concerns of all States and of humanity as a whole.

The process was difficult as drafters placed themselves in the positions of governments, including those of nuclear weapon possessing states, with diverse security needs, asymmetrical nuclear forces and policies, and varying reasons for resisting nuclear disarmament negotiations. After a year of consultations, however, the drafting process was successful in April 1997 and the resulting Model NWC was submitted to the United Nations in the same year and circulated as UN Document A/C.1/52/7.

This was followed in 1999 by the publication of *Security and Survival: The Case for a Nuclear Weapons Convention*, which explained the rationale for a Nuclear Weapons Convention (NWC), explored the political processes for achieving an NWC (or a framework of agreements which would achieve the same results as an NWC), and discussed critical questions about issues such as verification, enforcement, international security, alternatives to nuclear deterrence, terrorism, health and environment, nuclear energy, nuclear knowledge, reversibility, conversion, research and more.

Security and Survival also outlined some of the political and technical developments that make the achievement of a nuclear-weapons-free world (NFWF) a realizable goal. The Model NWC contained in *Security and Survival* and updated in this revised publication offers a vision of what such a nuclear-weapons-free world might look like and a plan for how to get there.

The Model NWC was well received by many governments, academics, scientists, civil society leaders and non-governmental organisations (NGOs). Initiatives by some nuclear weapons possessing states, including studies on verification and new restrictions on specific fuel chain elements, reflected ideas raised in the Model NWC. On the other hand, key nuclear weapons possessing states continue to resist the idea of commencing negotiations that would lead to the conclusion of an NWC.

Major political and social changes since 1997 have affected the broader context in which nuclear non-proliferation and disarmament are addressed. These include the rising spectre of nuclear terrorism, nuclear testing by India, Pakistan and North Korea; concern about nuclear fuel chain capabilities of some non-nuclear weapon states; the debate on missile defence; and the expansion of the nuclear doctrines of some of the nuclear-weapons-possessing states to include the threat or use of nuclear weapons in response to suspected development of weapons of mass destruction and even against threats from conventional weapons.

Former UN Secretary-General Kofi Annan has also noted the growing divide between those countries advocating non-proliferation first and those advocating disarmament first.

This makes revisiting the idea of an NWC timely as it combines both non-proliferation and disarmament measures. Can the NWC approach provide a way to bridge the divide and stimulate constructive steps towards nuclear abolition? Can an NWC address the new security concerns relating to nuclear proliferation risks? Is achievement of an NWC a political possibility or a utopian ideal?

The Weapons of Mass Destruction Commission chaired by Hans Blix regretted the “serious malaise” in disarmament diplomacy in recent years, and recommended that nuclear weapons be outlawed, identifying the key as “dispel[ing] the perception that outlawing nuclear weapons is a utopian goal. A nuclear disarmament treaty

is achievable and can be reached through careful, sensible and practical measures. Benchmarks should be set; definitions agreed; timetables drawn up and agreed upon; and transparency requirements agreed. Disarmament work should be set in motion.”¹

With this updated discussion on *The Case for a Nuclear Weapons Convention*, experts have returned, and been joined by others, to reconsider the NWC in the changed global security dynamic. These experts address the variety of concerns and questions about the call for nuclear abolition under an NWC. They argue that in a world experiencing diverse security challenges and terrorism, nuclear abolition is both an attractive and logical means of reducing and eliminating the dangers of accidents, sabotage or deliberate use of a nuclear device.

They reaffirm the perspective of Nobel Peace Laureates in their 2006 Rome Declaration: “The failure to work for nuclear weapons abolition shreds the fabric of cooperative security. A world with nuclear haves and have-nots is fragmented and unstable, a fact underscored by the current threats of proliferation. In such an environment cooperation fails. Thus, nations are unable to address effectively the real threats of poverty, environmental degradation and nuclear catastrophe. Nuclear weapons are more of a problem than any problem they seek to solve.”²

This book might not answer all relevant questions sufficiently. There may be different perspectives on the degree of verification required for nuclear abolition, or a change in the actual timeframes for the achievement of specific disarmament steps, or differing opinions on the security value of alternatives to nuclear deterrence, or continuing concerns about nuclear technologies used to generate electricity, or a requirement for improved methods of fissile materials disposal.

The Case for a Nuclear Weapons Convention indicates, however, that incomplete answers to these questions should not prevent negotiations on an NWC from starting and being brought to a conclusion in the near future. In fact, many of the answers will evolve from the negotiations themselves.

Although the international security environment today might appear discouraging for nuclear disarmament advocates, the Nuclear Weapons Convention — as a goal, as an indication of change in global security policy, and as a catalyst to further change — does not depend exclusively on arms control and short-term incremental progress. Efforts toward next steps in arms control and non-proliferation are conceivably blocked precisely because they have avoided the fundamental underlying dilemma posed by nuclear weapons: whether a global security regime based on threats of mass destruction, either evenly or unevenly distributed, is consistent with global survival and sustainability.

Since the Model Nuclear Weapons Convention was published, the debate has grown richer, broader in scope, and more nuanced in content. But debate is not enough. The International Court of Justice in 1996 affirmed, “there exists an obligation to pursue in good faith and bring to a conclusion negotiations on nuclear disarmament in all its aspects under strict and effective international control.”

The drafters of the Model NWC and the authors of this publication hope that by demonstrating the feasibility of nuclear disarmament, governments will be inspired to take on the difficult but necessary and increasingly urgent task of commencing, and bringing to a conclusion, nuclear disarmament negotiations. Not to do so will condemn the world to an inevitable catastrophe – unimaginable in scale. To do so will be enacting the will of the democratic majority, building a more cooperative and safe world, and indeed Securing our Survival.

¹ Weapon of Mass Destruction Commission, final report, *Weapons of Terror: Freeing the World of Nuclear, Biological and Chemical Arms* (Stockholm: June 1, 2006), p. 109.

² The Rome Declaration of Nobel Peace Laureates, 19 November 2006. http://www.pugwash.org/reports/nw/Nobelrome_declaration.pdf

The Evolution of a Nuclear Weapons Convention: Treaty, Custom, Norm

The abolition of nuclear weapons will be achieved through a combination of negotiated agreements, national implementation measures, and the comprehensive rejection of nuclear weapons by civil society, political institutions and legal authorities. Thus a Nuclear Weapons Convention will be a combination of treaty, custom and norm.

| What | Treaty Negotiated agreement | Custom Accepted practice | Norm Universal principle |
|-------------|--|--|--|
| Who | Governments | Civil Society | Humanity |
| When | Legislation | Transformation | Evolution |
| Why | Legal obligations Human Rights | State Security Human Security | Survival Morality |
| How | Incremental steps Package of agreements Comprehensive treaty | Arms control Non-acquisition No use of threat of use | Regulation/cooperation Disarmament Abolition |