



Disarmament: The Balance Sheet
Emerging Issues and Disarmament Education

By

Angela Kane
High Representative for Disarmament Affairs



Lecture Hosted by

University of Canterbury
New Zealand Institute of International Affairs (Christchurch branch)

Christchurch, New Zealand
9 April 2014

Please allow me to begin my remarks today with a few words of thanks to the hosts of this event, the University of Canterbury and the Canterbury branch of the New Zealand Institute of International Affairs. It is a privilege for me to visit this university and always a pleasure to have the opportunity to address the subject of disarmament.

Before proceeding, I would like to say how inspiring it is to be here in Christchurch and to witness firsthand how your citizens have been rebuilding your community after the devastating earthquakes you have suffered in recent years. Your resolve and determination to build for the future will serve as a model for other communities around the world that have had to cope with such natural calamities.

But your response is actually not that surprising. After all, your civil society has a long history of promoting the betterment of your community and larger national interests. The Disarmament and Security Centre—a member of your wider Peace Foundation family—is but one good example of this. It is headed by Kate Dewes, who has served on Secretary-General Ban Ki-moon's Advisory Board on Disarmament Matters. She and her husband Rob Green have made significant contributions to advancing the great cause of global nuclear disarmament and I am pleased to recognize their work today.

I have now had the privilege of making several statements during my current visit to New Zealand. In Auckland, I explored three possible outcomes for nuclear disarmament. In Wellington, I spoke twice at Victoria University, elaborating the importance of what I called “congruence”—namely, a harmony and consistency between foreign and domestic policies in this field. I also offered a balance sheet of achievements and setbacks in dealing with the elimination of nuclear weapons and other weapons of mass destruction and the regulation of conventional arms. In addition, I spoke to your parliamentarians about the important contributions of the world's Parliaments in helping to achieve a nuclear-weapon-free world.

In brief summary, while I am discouraged by the lack of progress on nuclear disarmament, and encouraged by the conclusion last year of an Arms Trade Treaty, I am withholding temptation either to fall into despair or to yield to ecstasy. There are some emerging trends I would like to discuss today precisely because I think they will have a profound impact on future balance sheets with respect to both nuclear and conventional arms.

Perhaps the most notable development in recent years has been the growing

popularity of what might be called a humanitarian approach to disarmament—this relates primarily but by no means exclusively to nuclear disarmament.

The dusty old tenets of the laws of war, it seems, have been rediscovered by governments and non-governmental groups around the world. The inherently indiscriminate nature of the consequences of using nuclear weapons are now much more widely recognized, as is the virtual impossibility of using such weapons in a manner consistent with international humanitarian law. This approach has now been recognized by the parties to the Nuclear Non-Proliferation Treaty at their last Review Conference in 2010, and it has been a theme of two major international conferences in Oslo and Nayarit in 2013 and this year, respectively. Austria will host another international conference on this issue later this year. This budding renaissance of the laws of war as they apply to nuclear weapons has the possibility of transforming the whole debate about nuclear weapons and this is a welcome development indeed.

Regarding conventional arms, the world has welcomed the adoption of the Arms Trade Treaty, which at long last establishes some basic terms for ensuring that exports and imports of such weaponry do not aggravate local conflicts or assist in advancing terrorism. This treaty now has 118 signatories and 31 states have already ratified it in its first year of existence. It should enter into force later this year, though new challenges will no doubt arise in implementing this convention and in bringing it to universal membership.

One can also find a humanitarian theme in much of the debate and literature about conventional arms. This theme appears explicitly throughout the Arms Trade Treaty. The Convention on Certain Conventional Weapons (CCW)—otherwise known as the “inhumane weapons convention”—either prohibits or regulates the use of several types of such weaponry that have particularly repugnant humanitarian effect, such as blinding laser weapons.

Other efforts have been underway in recent years to address the use of explosive weapons in densely populated areas, a subject the Secretary-General Ban Ki-moon has raised as a personal concern. This is part of a larger, long-standing UN to protect civilians in armed conflict, and it is also the focus of a network of non-governmental organizations that is seeking to engage governments to develop new controls and protections, including for children in armed conflicts. We are seeing growing numbers of international conferences and workshops on this theme—which I have found is often a harbinger of the development of new norms in this field. The humanitarian tragedy in Syria is further highlighting the need for

new controls.

One of the reasons I am so intrigued by the humanitarian approach to disarmament—aside from its solid foundation in international law—is the potential it offers for expanding the disarmament constituency worldwide. Advocates of disarmament are often so passionate about eliminating or limiting specific weapons that they fail to reach out for new allies amongst other groups. I sometimes think the disarmament community is not unified, but instead resembles a disjointed archipelago of groups—each with its own subculture, priorities, agenda, and network of allies. The humanitarian approach is a potential bridge-builder—a potential means of drawing these diverse groups together in a truly common cause. And that great common cause is the strengthening and implementation of international humanitarian law through disarmament.

I admit that there are some risks to this approach, especially in relation to nuclear weapons. After all, States that possess such weapons point to the horrific effects of such weapons as enabling their old doctrines of nuclear deterrence to work—the catastrophic effects of using them are what makes non-use possible, they argue. I am not at all persuaded by such reasoning. At the very least, advocates of the humanitarian approach to nuclear disarmament have a strong case to make that nuclear weapons are illegitimate because of their fundamental inconsistency with humanitarian law—and the chronic risk of use as long as such weapons exist.

While I do not think this approach will be sufficient to take us to a nuclear-weapon-free world, I do indeed think it will help us substantially to move in that direction. We will need more than just to repudiate nuclear weapons on legal and moral grounds, as worthy as those goals are. We will also need to build and ensure security in a world without such weapons. In short, we will need not just to declare nuclear weapons illegal because they are inhumane. We will also need to establish the controls needed to ensure that their elimination will be permanent, universal, legally binding, verifiable, and undertaken with full transparency.

But unfortunately, nuclear weapons are not the only challenges on the horizon. There are a host of emerging weapons technologies that I also believe will require new controls—some political, some legal—to reduce or eliminate their own risks of deviating from international humanitarian law. This is a huge responsibility, when one considers the wide range of technologies that could potentially have profound implications for international peace and security—including cyber weapons, military applications of nanotechnology, lasers, drones,

autonomous weapons, long-range conventional strike weapons, genetically engineered bio-weapons, electromagnetic weapons, and countless others.

The good news here is that existing international law is fairly robust when it comes to humanitarian norms. There is an additional protocol to the 1977 Geneva Convention, for example, that requires any new weapons, means and methods of warfare to be systematically assessed in order to ensure that such weapons are not in violation of relevant international law, including international humanitarian law.¹ It has long been a basic tenet of the laws of war that the right of combatants to choose their means and methods of war is not unlimited.

In recent years, great attention has been directed toward the use of unmanned aerial vehicles (UAVs or drones), in terms of the effect of their use upon civilian populations. The use of such weapons is certainly subject to international human rights law and international humanitarian law (the law of war). The UN Charter's prohibition on the threat or use of force in resolving disputes is another significant legal constraint.

Yet today, about 88 States possess this technology and some of these have already decided or may decide to use them for offensive military or counter-terrorist purposes. At least one State has studied the development of an unmanned nuclear bomber. Other types of UAVs, however, can serve useful functions of monitoring compliance with arms control or demilitarization agreements, as well as wide range of other non-weapons functions, such as monitoring compliance with environmental norms. Given the nature of technology development, as the cost to produce such aircraft declines, and their numbers increase, so too will the number of possessor States.

Yet if armed UAVs are used weapons in secret, how is accountability to be maintained for assuring compliance with legal constraints? It seems obvious that transparency is absolutely essential in this respect. One possible way this could be achieved would be if States agreed to report their UAVs to the UN Register on Conventional Arms, under the categories "combat aircraft" or "attack helicopters".

In practice, however, it has proven quite difficult to achieve consensus in relevant UN arenas on controls over armed UAVs. Several panels of governmental experts on missiles were unable to agree on matters of substance concerning these aircraft. Another group of governmental experts on the UN Register of

¹ Article 36 of Additional Protocol I to the Geneva Convention (1977).

Conventional Arms was also unable to agree on any substantive recommendations on UAVs.

In 2013, the UN Secretary-General's Advisory Board on Disarmament Matters took up the issue of emerging technologies, looking in particular at drones and autonomous weapons—the latter being weapons that operate on their own without human direction or intervention. The Board recommended that the Secretary-General approach this issue from international humanitarian law, human rights and disarmament perspectives. The Board emphasized that further study and deliberations on autonomous weapons would be needed to “address the possible need for disarmament measures” for such weapons.²

This issue of autonomous weapons—often called “killer robots”—has attracted a great deal of attention especially from groups in civil society, including the Campaign to Stop Killer Robots. Next month, an informal meeting of experts will meet in the framework of the CCW to conduct an open debate on technical, legal, military, and ethical aspects of “lethal autonomous weapons systems”. A report on the outcome of those deliberations will be sent to the meeting of the CCW High Contracting Parties this November for consideration and possible discussion of a negotiating mandate.

Clearly, the international community and civil society are struggling with this issue, as they try both to understand the significance of the ongoing development of this technology and to ensure that such development is either prohibited outright or undertaken only with a set of norms in a manner that can be monitored and that can ensure accountability.

Existing and emerging cyber weaponry capabilities are also presenting great challenges to the international community, as it struggles to ensure that technology evolves within a system of norms—whether in the form of regulations, principles, codes of conduct, or legal prohibitions.

Cyber weapons present some unique challenges at the United Nations because the UN was founded on the principle of the sovereign equality of its Member States. By the very nature, cyber weapons challenge sovereignty because they exist in a world without borders. This raises questions about the extent that States are responsible for acts undertaken within their jurisdiction by non-state actors. Continuing disagreements among States over what constitutes a “threat or

² A/68/206, 26 July 2013, p. 11.

use of force” when it comes to cyber weapons raise other legal difficulties—such as in ensuring compliance with that Charter prohibition, as well as the basic tenets of international humanitarian law. In this business, it can be difficult if not impossible to establish accountability for all malicious acts. Additional concerns arise over tensions between the right to privacy and government efforts to control information and communication technology.

With respect to international norms, several groups of governmental experts have looked at this question. The last report of such a group, issued in 2013, agreed on some interesting recommendations, including the proposition that norms derived from existing international law are applicable to the use of information and communications technology. However, the experts are divided over whether new norms are needed in this field, as opposed to the alternative of improving implementation of existing norms.

There are many possibilities here for confidence-building measures, but their fate will depend upon our old, familiar friend: political will. Cyber weapons have in the past not been viewed as a disarmament issue. But as support continues to grow for a humanitarian approach to disarmament, I am becoming more and more aware of its relevance to our work at the UN, whether in terms of eliminating weapons of mass destruction or regulating conventional arms. It is useful to recall that the General Assembly’s first resolution, adopted in January 1946, identified the goal of eliminating not just nuclear weapons but also “all other major weapons adaptable to mass destruction.”³ One can only wonder if the authors of those words recognized that, one day, these words may entail more than nuclear, chemical and biological weapons.

Which brings me to the question, is humanity now standing at the dawn of a bright new era of peace and security? Or is it reaching the point where it may soon be viewing the encroaching darkness of its final sunset?

H.G. Wells gave us the answer in his Outline of History, published in 1920. He said, “Human history becomes more and more a race between education and catastrophe.”

How are we going to grapple with the complex emerging political and technological challenges that I have briefly surveyed in my remarks today—challenges that compound the horrible dangers we are facing from existing

³ General Assembly Resolution 1(I), 24 January 1946.

weaponry?

Where will we find the informed decision makers, diplomats, inspectors, legislators, taxpayers, and voters who will make their own contributions in answering this question?

Nelson Mandela had his own answer. He said, “Education is the most powerful weapon we can use to change the world.”⁴

As I speak here today to this university audience, I appeal to you to put your research, teaching, and advocacy skills to good use. Bring them to disarmament. My Office for Disarmament Affairs can help. We have all sorts of research resources, primary documents, treaty databases, books, workshop summaries, films, a *UN Disarmament Yearbook*, and countless other tools that I cannot begin to mention today. Visit our website at www.un.org/disarmament and you will find what you need to do this work.

In preparing for this speech, I was delighted to see that the Government of New Zealand has established some trust funds to assist scholars and non-governmental organizations in this field—the Disarmament Education UN Implementation Fund, and the Peace and Disarmament Education Trust. If only more countries would make such funds available, we might well see new progress in this field despite all the familiar obstacles. This is just another example of the basic congruence between New Zealand’s international commitments and its domestic policies.

So my closing lines to you today will be quite simple. Thank you. Join the cause. And best wishes for every success in your work.

⁴ Address at University of Witwatersrand, Johannesburg, South Africa, 16 July 2003.