Remarks by Thomas Nash, Director, Article 36

Open-ended Working Group on Nuclear Disarmament

Geneva, Thursday 16 May 2013

Thank you Ambassador and thank you to the organisers for inviting me to speak.

As a member of ICAN, we welcome the Open-ended working group on nuclear disarmament. It is another example of the growing sense of energy, urgency and determination to make progress on nuclear disarmament despite the many constraints. It also represents a recognition that we cannot sit back and allow business as usual to prevail.

So, looking at this shifting landscape, we’ve been particularly encouraged by the growing engagement of states, civil society, international organisations with concepts such as

• delegitimising and devaluing nuclear weapons
• refocusing the debate on the humanitarian consequences of nuclear weapons
• creative thinking on a new international instrument to prohibit nuclear weapons

The strong involvement of the Red Cross and Red Crescent movement on these themes has been significant, as well as humanitarian actors within UN such as OCHA and UNDP.

The development of ICAN as a broad based civil society coalition with a clear focus on a treaty banning nuclear weapons has changed the landscape.

And, as we’ve seen from the humanitarian joint statements at the NPT and UNGA, as well as the Oslo Conference, it’s encouraging to see a wide, diverse group of states taking up the humanitarian framing and embracing calls to outlaw and eliminate nuclear weapons.

We see a bright future for these communities working in partnership together to develop some more effective responses to the threat of nuclear weapon use and to move beyond what we see as an unsustainably dangerous status quo.

I'm pleased Jarmo has set out the UNSG's 5-point plan and the context since then. It's a very useful summary of initiatives on nuclear disarmament. I want to focus on an element that the UNSG pointed to when he noted the lack of any treaty outlawing nuclear weapons.

I will cover a the key points from a recent contribution that Article 36 has made to this debate, a short paper called ‘Banning nuclear weapons’.

The document has three sections

• an overview of the humanitarian consequences of nuclear weapons
• an overview of existing mechanisms in place to prevent use, including NPT
• a possible framing for a new international treaty to ban nuclear weapons

Humanitarian impact

For us the humanitarian impact focus is important – we need to remember that these are weapons, not just symbols, they have effects. We have seen these effects, the effects are unacceptable, that’s why they need to be banned.

Facing up to the humanitarian consequences of nuclear weapons is also important in terms of the way states conceive of their identity. Possession of nuclear weapons has tended to be seen as indicative of a sense of power and prestige, status symbols as Jarmo put it – at least for the political and military elites of nuclear-armed states.

But concepts of national identity for many states are also bound up with humanitarian, human rights and environmental imperatives, including in relation to the types of weapons states consider acceptable – either to use themselves or to have used on their behalf.

Existing mechanisms
We think that existing mechanisms have had significant success in preventing the use of nuclear weapons, including with support from civil society. NPT, NWFZs, CTBT are useful building blocks towards elimination, but don't do enough to stigmatise the continued possession of nuclear weapons.

**A ban on nuclear weapons**

I'll spend a bit more time on this third point today, framing a ban on nuclear weapons, hopefully dovetailing with the presentation of the Secretary General’s 5-point plan.

As a member of ICAN, Article 36 is calling for a new treaty to ban nuclear weapons and with a strong partnership we believe such a treaty is possible in the next few years.

The UNSG appealed to all states to be first movers in this area and not to wait for others to take the initiative. We very much agree with this and a process to ban nuclear weapons should be seen as states taking responsibility for disarmament. We expect it will be the non-nuclear weapon states taking the initiative. In this regard the Oslo Conference and indeed this OEWG have been important because they show such initiatives are possible and don't need to rely on certain states.

We believe that changing the legal framework governing nuclear weapons will have an impact beyond those states that may formally adopt it in the first instance.

The process of establishing a treaty banning nuclear weapons, as well as the treaty itself, will extend and renew the stigma that already attaches to nuclear weapons and will contribute to their progressive delegitimisation.

So we see such a treaty as a step in a process – the ban would be an additional tool towards a nuclear weapon free world, elimination usually follows prohibition. The prohibition of chemical and biological weapons has been an essential step in working towards their elimination, which is ongoing.

We have set out three complementary framings for a ban on nuclear weapons:

**Fulfilling disarmament commitments**

We want to see states fulfil their existing NPT obligations – including on Article 6.

A ban treaty would not be an alternative to the NPT, nor a response to perceived shortcomings within the NPT. It will be a concrete track in its own right, which is not dependent on NPT outcomes, but which supports the overall movement towards the elimination of nuclear weapons.

No doubt some will want to point out that a ban on nuclear weapons cannot be done or would not be meaningful without the nuclear armed states on board. But those states don't have the right to prevent others from formalising more clearly their rejection of these weapons and thereby setting the legal standard.

So those that raise this concern should think about why they are raising it. Is it it out of concern that such a process would have an impact on their own policies whether they like it or not?

It has been heartening to see the rhetoric from certain nuclear-armed states that initially described the Oslo conference as a distraction from nuclear disarmament now saying that the humanitarian initiative has brought renewed energy to the NPT. This is how we see it too.

**Building on the nuclear weapon free zones**

A ban treaty can be conceived as building from the bottom up, coalescing existing zones which cover 115 states.

The existing zones are all different in certain ways, but they generally contain prohibitions on acts such as possession, testing, use, production and acquisition of nuclear weapons, as well as assistance or encouragement with such acts.

A treaty banning nuclear weapons would not need to be formally dependent on the existing zone agreements or require participation by all states within them (or indeed the NPT 'NWS').
Rather it would be open to all on an equal basis and would provide a way for states outside existing zones to stand in solidarity and affirm their rejection of nuclear weapons, even if their neighbours were not ready to participate in a NWFZ.

Mongolia is important in this regard as a single state nuclear weapon free zone. Given that NWFZs have been applauded in the international community as a contribution towards international security, it would be hard for an international instrument built on this foundation to be subject to coherent criticism.

**Banning WMD**

Jarmo noted that the UNSG has called on states to reject all WMD as illegitimate and immoral. The prohibition of nuclear weapons is the missing piece for a broad legal rejection of weapons of mass destruction.

A number of weapons with unacceptable effects have been subject to banned under IHL. Chemical and biological weapons have been banned under international treaties and the preambles of these treaties highlight their unacceptable humanitarian consequences as a rationale for their prohibition.

It is an anomaly that nuclear weapons have not been banned. That this anomaly has been allowed to continue is a failure of the international community. We are optimistic that states should be able to correct this anomaly in the coming years by developing and concluding an international treaty to prohibit nuclear weapons.