

“Forging a New Consensus for the NPT”

Middle Powers Initiative Consultation, Vienna International Centre

Panel: “Towards Security Without Nuclear Weapons”

Notes for Remarks by John Burroughs

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Lawyers’ Committee on Nuclear Policy (LCNP) is the principal U.S. affiliate of International Association of Lawyers Against Nuclear Arms, and devotes a considerable portion of our efforts to monitoring and advocacy in the Nuclear Non-Proliferation Treaty (NPT) and United Nations contexts. But we also do advocacy within the United States, and I want to start by telling you about that.

What LCNP is doing as a US NGO

1) like Global Security Institute and other groups, we are distributing *Weapons of Terror: Freeing the World of Nuclear, Biological and Chemical Arms*, the report of the WMD Commission, including to members of Congress, NGOs, interested public, and through other NGOs in presidential campaigns

2) with Western States Legal Foundation, and Reaching Critical Will, we are preparing a book-length response to *Weapons of Terror*; released draft edition last October in First Committee on Disarmament and Security of the UN General Assembly; final edition to be released at NPT PrepCom. Entitled *Nuclear Disorder or Cooperative Security: U.S. Weapons of Terror, the Global Proliferation Crisis and Paths to Peace*, it both praises and critiques the June 2006 report of the WMD Commission, and goes beyond to offer in-depth analysis and recommendations regarding U.S. policy in relation to the international security framework, nuclear weapons R&D, delivery systems, climate change and nuclear power, and demilitarization and redefining security in human terms.

Situation in US

More chance for movement than there has been for at least a decade.

- new Congress
- presidential campaigns coming up
- post-Iraq invasion climate – more interest in diplomacy

Earlier this month, NGOs around the country held a meeting in Washington on formation of a two-year campaign for a nuclear weapons free world.

- opportunities of focus presented by Reliable Research Warhead program – the new hydrogen bomb, and modernization of nuclear weapons complex, called “Complex 2030”
- inspired by the January 4 op-ed of Shultz et al – for some groups legitimized talking about nuclear abolition
 - there are difficulties of resources, getting a message to take hold in a public distracted by multiple issues and a tendency to believe the nuclear problem is over except for the problem of spread

Topic of today's panel: Towards Security Without Nuclear Weapons

We're all aware of negative trends. Let me remind you of some positive trends:

- **nuclear weapons have not been exploded in war** since U.S. bombed Hiroshima and Nagasaki

- doctrine regarding use of nuclear weapons has become more expansive over the last few years, but I think the **legitimacy of use still is very low, even declining**; paradoxically, expansion of doctrine is in part an attempt of nuclear weapons establishment to counter this – like salesmen – “We’re still relevant”

- **non-testing, except for North Korea, for a number of years**

- **receptivity of global public to elimination of nuclear weapons**. In US, polling shows that the average guess by Americans of US arsenal is 200 warheads, which they think should go to 100. And by a large margin, Americans agree that no country should have nuclear weapons by a large margin.

Global institutional architecture needed for movement towards a Nuclear Weapons-Free World (NWFV):

- **strengthening of institutions, like the International Criminal Court and the UN**; in a curious way, the problem of nuclear weapons has made it necessary to make international institutions work in general, not only with respect to direct control of nuclear weapons. Amb. Choi put this point eloquently yesterday in saying that transnational problems like nuclear weapons, climate change, communicable diseases and others now require a different conception of national interest, one that recognizes the need for effective international institutions.

- **continued development of rule of law, especially international humanitarian law (IHL)**; U.S. military claims to act in accordance with their understanding of IHL, non-attack of civilians, “collateral damage” only where justified by military necessity; thus among other things making the International Criminal Court a working institution is important, because nuclear use is inherently incompatible with IHL.

Regarding the United Nations Security Council, the WMD Commission is emphatic about the central role of the Security Council in reducing the risks posed by NBC weapons. It says that the Council should enforce disarmament and non-proliferation requirements, as a last resort employing or authorizing economic sanctions or military action. Moreover, it endorses the Council acting as a global legislator, as it has already done in resolution 1540 aimed at preventing non-state actor trafficking in and acquisition of nuclear, biological and chemical weapons and materials. There are strong reasons for the Commission to have taken these positions; given the current institutional framework, the Council is best positioned to act expeditiously and authoritatively.

Nonetheless, to build the participation, reciprocity, legitimacy, accountability necessary for buy-in, we need to look beyond the present-day Security Council – all also supported by WMD Commission:

- **accountability, transparency, reform of SC to make more representative**

- Security Council itself can find ways, under Chapter VI for example as Dr. Blix has said, or under its general authority under Article 25, to **deal with compliance issues that do not rise to the level of threats to international peace and security**; trends in this direction in post-Iraq war setting, as most Council members are careful to avoid when possible any implication of the possibility of lending legitimacy to use of force to “enforce” Council resolutions (except when the Council affirmatively and specifically decides to do so).

- **make the treaty regimes work**. Needed

- **improved governance for NPT regime** – secretariat, executive council, meetings of states parties empowered to take on issues like withdrawal and compliance with both non-proliferation and disarmament commitments

- **consider expanding the role of the IAEA** – give it mandate and technical resources to deal with issues of weaponization – high explosives for warheads, missile delivery vehicles – or perhaps an UNMOVIC successor.

- **IAEA could also have a role in monitoring reductions, as Ruud Lubbers has suggested, or again a new agency**

- **return to multilateral treaties as law-making mechanism** – stimulated by resolution 1540, for example, a treaty standardizing export controls and perhaps other 1540 measures

Work towards a NFWF needs to be undertaken with an awareness of the geopolitical context – I offer these thoughts, which are mentioned in the MPI briefing paper (http://www.middlepowers.org/mpi/pubs/vienna_brief.pdf)

In the post-Cold War years, after the first few years, we have seen anti-multilateralist, anti-disarmament US approach. The WMD Commission explains this in part on the basis that it “that NPT violations by Iraq, Libya, and North Korea resulted in a severe loss of confidence in the effectiveness of the treaty.” It adds that “weakness and difficulties” regarding the lack of universality of the NBC weapon regimes, the option of withdrawal, verification, and compliance “may have contributed to some scepticism of the treaty regimes—even a shift of approach—on the part of some policy makers. This is especially true of the United States.”

As a U.S.-based NGO, I would respectfully disagree w/the WMD Commission on origins of anti-multilateralism/anti-disarmament.

I would regard the U.S. focus on the problem of “rogue” states more **as an ideology of a U.S. military and in particular nuclear weapons establishment that had, as Colin Powell said in the early 1990s, run out of enemies.** The nuclear weapons establishment seized on the phrase WMD to construct biological and chemical weapons capabilities as justifying U.S. nuclear capability to counter or preempt such capabilities.

In addition to the sheer momentum of huge nuclear and military establishments that seek to rationalize their existence, I would emphasize two factors for the turn away from multilateralism,

One is the rise of nationalism and of “fundamentalist” religious identities both of which are by their nature incompatible with or least inhospitable to the universalism and rationalism inherent in the effort to build and sustain global regimes. These have been factors in the United States as elsewhere. There has been a corresponding decline in the power of secular ideologies of progress, liberal or socialist.

A second has been the US response to a new strategic context. The NPT came into existence at a time when the extreme dangers of nuclear “deterrence” as practiced between the Soviet Union and United States gave rise to a corresponding need to develop structures of stability, notably the NPT aimed at preventing the spread of nuclear weapons. Bilateral talks in the early 1960s about a non-proliferation agreement initially sought to prevent acquisition by states including Germany, Japan, Israel, China, and India. In the event, Israel, China and India were not captured by the effort.

Now the United States is facing a new strategic context, with China and India emerging powers. U.S. planners appear to have concluded that the United States should not build up a relationship of “deterrence,” stability and arms control with China, but rather should maintain military superiority vis-à-vis China and build a strategic partnership with India. A 1999 U.S. National Defense University paper stated that “the United States should not allow a mutual vulnerability relationship to emerge with other states [besides Russia], either intentionally or otherwise.” In this approach, arms reductions; control of missiles, missile defenses, and space-based systems; and strengthening global institutions are not the chosen policy instruments.

Implications for working towards a NFWF

1) It almost goes without saying: **hold on to the belief in the power of reason and of universally applicable approaches. I’m proud to be part of Middle Powers Initiative which has been holding up this banner, as has everyone in the room.**

2) **Design strategies and institutions with the new geopolitical context in mind, as laid out in the MPI briefing paper, pp. 5-6.**

Certainly **the U.S.-Russia relationship** still must be at the center of efforts. Fifteen years after the collapse of the Soviet Union, the United States and Russia remain locked in a Cold War-style nuclear balance of terror characterized by high alert rates and large arsenals. MPI, the WMD Commission, and others have therefore rightly emphasized the need to dramatically change that relationship in order to break through to a new stage in reducing and eliminating arsenals globally. Key steps are:

- standing-down of nuclear forces and elimination of the launch-on-warning option from nuclear war plans
- negotiation of a new strategic reduction treaty applying the principles of verification, transparency, and irreversibility that would include a requirement of dismantlement of weapons withdrawn under the 2002 Strategic Offensive Reductions Treaty (SORT)
- unless superseded by a new treaty, extension of START, which expires in 2009 and provides some monitoring mechanisms for SORT and limits on multiple-warhead missiles
- transparency regarding existing aggregate holdings of nuclear weapons

The need for these steps is virtually self-evident if progress towards a nuclear weapons-free world is to be made and if the world is to be made safer now. Between them, the United States and Russia have about 95% of the world’s 11,000-plus operational warheads and of the total world stockpile of nearly 26,000. The SORT commitment for each side to deploy no more than 2200 strategic warheads expires upon its coming into effect at the end of 2012, and SORT does not require verified dismantlement of withdrawn warheads or delivery systems. It is estimated that in 2012 the United States will have a total arsenal of about 6,000 warheads.

Regarding the current state of hair-trigger alert, it is estimated that Russia has about 1000 warheads ready for immediate launch, and the United States about 1600. Beyond the possibility of launch based on false warnings, two other risk factors are emphasized by Bruce Blair, John Steinbruner, and others. First, at the same time as the Cooperative Threat Reduction program aims to secure warheads and fissile materials in Russia against diversion to terrorists or other states, the high alert state

requires many hundreds of weapons to be in transit or temporary storage at any time. Second, computerized communication, command and control systems are vulnerable to hacking.

But we must also be conscious of **an important new reality: the need for the United States and China to engage in cooperation on arms control and disarmament.** The risks posed by this approach are illustrated by the U.S. buildup of the more capable Trident II missiles in the Pacific and an increase to eight in the number of Trident submarines there, each carrying 144 warheads of 100 or 455-kiloton yield on 24 missiles. The missile buildup is aimed at exerting additional leverage on China, with the posture of readiness to actually wage nuclear war by striking enemy nuclear forces familiar from the Cold War and still in place between the United States and Russia. China's January 2007 destruction of a satellite with a ground-launched missile, resulting in a significant and harmful addition to space debris, imitated U.S. and Soviet tests in the 1980s. It is a loud and clear signal that China is not prepared to just sit and watch as the United States seeks to augment its already extraordinary military capabilities with ground and sea-based anti-missile systems and possibly with space-based anti-missile, anti-satellite, and perhaps even ground-strike systems. It is not, of course, only China that is concerned. In February 2007, a top military official in Russia raised the possibility of withdrawal from the Intermediate-Range Nuclear Forces Treaty in response to U.S. plans to build a missile defense installation in Poland.

In working towards a nuclear weapons-free world, these are developments that we ignore at our peril. It is urgent to find ways to engage the United States in cooperative security relationships with China and other major states besides Russia.

1) Obvious candidates for facilitating this shift are bringing the CTBT into force, negotiating an FMCT, and negotiating an instrument on space security. But also important are measures that would directly address nuclear arsenals.

2) Increasing transparency and institutionalizing a stand-down of nuclear forces are two areas in which all weapon-possessing states could participate immediately, even if it is insisted that global negotiations on reduction and elimination of arsenals must await further and substantial reductions in U.S. and Russian forces.

3) All weapon states should also make commitments or enter agreements on non-use or at least no first use and on non-modernization of nuclear forces.

4) All states need as well to consider how to address the infrastructures for nuclear weapons maintenance, research, and development; the huge investments made by some weapon states in such infrastructures amount to a kind of virtual arms racing that lays the foundation for actual arms racing.

5) Something not in the MPI briefing paper, and also not taken on by the WMD Commission report: The need for global controls on long-range delivery systems, above all missiles as well as missile defenses. This is in part because they can be nuclear weapons delivery systems. But it also because it will be very difficult finally to achieve a NFWW if countries feel under threat by missiles carrying conventional warheads – or if disarmament has not been successfully verified, NBC warheads. Movement to non-offensive defense. Obviously this is a tall order. But it is in the nature of things nonetheless in our global village in the 21st century and beyond.

Let me close with one final thought: the need for *institutionalization of planning for a Nuclear Weapons Free World*. Recommendation 30 of the WMD Commission says: “All states possessing nuclear weapons should commence planning for security without nuclear weapons.” NGOs have already been contributing here – MPI, International Panel on Fissile Materials, others. At the NPT PrepCom, the International Association of Lawyers Against Nuclear Arms, International Physicians for the Prevention of Nuclear War, International Network of Engineers and Scientists Against Proliferation will be releasing a revised version of the book explaining the Model Nuclear Weapons Convention. The book is now entitled *Securing Our Survival* (see www.icanw.org) It’s also worth thinking about how to institutionalize planning on the international level. **What is the successor to the commissions of the past decade: the Canberra Commission, the Tokyo Forum, the WMD Commission?** I have no specific ideas about this. But I note that the new Secretary-General says he wants to give disarmament/non-proliferation a higher profile. Perhaps a mission for the office of Disarmament Affairs, on its way back to being a department?!