

The Next Great Hope: The Humanitarian Initiative and Nuclear Weapons

Title: The Next Great Hope – The Humanitarian Initiative and Nuclear Weapons
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Thank you for the generous introduction, Nick, and I hope I live up to it in terms of what I'm going to argue and say today. As you've probably seen, I will be talking about the Humanitarian Initiative and Nuclear Weapons.

One of the key defining features of the nuclear condition is the persistent inability to actually do away with nuclear weapons. I think that's a really important starting point. Indeed, the nuclear condition itself must be defined by the existence of nuclear weapons. So long as they remain in someone's possession, the nuclear condition cannot be argued away and it continues to be a humanities condition. Now the lack of any progress on the way to nuclear disarmament and evolution is, in my view, remarkable because there has been no shortage of attempts to actually achieve this argument. What is more, it is a frequently proclaimed goal and a widely shirked ambition. So there have been attempts that something that people subscribe to, it's something that they say they aspire to, and yet efforts to rid the world of nuclear weapons fail time and again.

The failure to address the nuclear condition in a way that would provide a more satisfactory solution than the reliance on a tenuous balance of terror, has not gone unnoticed by those disturbed by the existence of nuclear weapons. In recent years, a substantial group of [actor - 0:01:42] comprising of state and their representatives, as well as many in the global civil society and I think that's a very important element, have reinvigorated their efforts around what has come to be known as the Humanitarian Approach, or the Humanitarian Initiative. Loosely put, this draws on the idea that nuclear

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weapons with their awesome destructive power, are a common problem shared by all human beings. Central to this view is the claim that the consequences of nuclear weapons potentially use, even in a limited form, would be suffered far beyond the immediate areas of [0:02:25]. Their use would represent a humanitarian catastrophe in the sense that the ensuing impact would be largely indiscriminate and long lasting. The humanitarian approach is the next great hope, I would argue, of those committed to the evolution of nuclear weapons. It has injected some much needed enthusiasm into the ranks of nuclear abolitionists. In the past few years, their activity has concentrated around the so-called 'Humanitarian Initiative', and I will explain the difference. The Initiative is a series of formal international gatherings sponsored by several states where calls for the legal abolition of nuclear weapons have been raised and so I think actually as we're sitting here, there is a reasonably important meeting for the people involved in the Humanitarian Initiative in Geneva where they will be discussing for two weeks how to proceed and what to do next. I'll maybe say a little bit more about it or we can take that up in the Q&A.

But I think the most important thing that the Initiative has so far culminated in is the formulation of what's called the Humanitarian Pledge. By accepting the Pledge, countries commit themselves to work towards the elimination of nuclear weapons on the grounds of their unacceptable humanitarian consequences.

Now my paper analyses the Humanitarian Approach, or the Humanitarian Initiative and the prospects it offers when dealing with the problem of nuclear weapons. The analysis is based on a classic realist perspective. Such perspective in my view is particularly useful because the Humanitarian Approach attempts to address the political problem of nuclear weapons by recourse to claims about morality and through the means of international law. While this course of action is perhaps understandable, it is open to the question whether, and if so how, it takes into account the underlying power political realities created by the possession of nuclear weapons. It is, in short,

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a prime example of a conflict between the haves and the have nots. None of the nuclear weapon states has accepted the Humanitarian Approach or Initiative. I think to overlook this dimension and to consider the programme of nuclear programmes merely as a moral and legal issue, must lead to yet another failure in efforts to achieve nuclear disarmament. So as you can see, I'm very much stressing the political element of this problem and I will develop that by addressing three broad questions. First, what is new about the Humanitarian Approach? Second, why has the Humanitarian Approach or the Initiative appeared in the current historical and political constellation? And third, can the Humanitarian Initiative reach its proclaimed goal?

Now let me address and start with the first question, what is new here? The Humanitarian Initiative is a serious attempt, there is no doubt about that, to shift the debate on nuclear weapons. Aiming at their eventual abolition, the Initiative has coalesced around a series of conferences on the humanitarian impact, which have been held since 2013. These have been held in Norway, Mexico, Austria, [0:06:33] the NGOs and so on and so forth. The Humanitarian Pledge that I already mentioned was unveiled at the last of these conferences in December 2014 in Austria and it was unveiled as an initiative of the Austrian Government. So it issued a particular declaration as its own declaration and then this declaration was actually joined by other countries. The document partly served as a rallying call ahead of the regular 2015 review conference of the treaty on the non-proliferation of nuclear weapons, which took place last year, and partly it was a manifesto I think for future action in the area of nuclear disarmament. In line with this, its supporters welcomed the vote of the United Nations General Assembly which adopted the Pledge in the form of a resolution at its session in December 2015. So within a very short period of time, there has been lots going on. Essentially from December 14 to December 15, the Pledge has gone from a one country initiative to a large international undertaking that commands a comfortable majority in the UN General Assembly.

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Now the objective of the Humanitarian Approach is to achieve a legal document banning and eliminating nuclear weapons. Its goals are most succinctly summarised in the concluding paragraph of the Pledge, which declares that the aim is “to stigmatise, prohibitive and eliminate nuclear weapons, in light of their unacceptable humanitarian consequences and associated risks”. But the language of the Pledge draws on some formulations contained in the consensus document of the 2010 review conference of the MPT, efforts to control nuclear weapons by pointing out dangers they represent to humanity, predate their very existence. So if we’re asking the question of what’s new here, we really do need to look back. Now there’s plenty you can go by but I think I would highlight three things here. Firstly, [Neil Bore - 0:09:08] famously warned in his July 1944 letter, or memorandum, to President Roosevelt, that in the absence of an agreement to control the new facile materials, any immediate advantage would be “outweighed by a perpetual menace to human security”. Now a perpetual menace was borrowed for a very very important book by William Wallace on this subject. So this is 1944, even before the two bombs are dropped on Hiroshima and Nagasaki. A decade after, the humanitarian concerns were reiterated in the so-called Russell Einstein Manifesto of 1955 which gave rise to the [Pugwash - 0:10:03] Movement and of course, Pugwash eventually received for its work on nuclear disarmament the Nobel Peace Prize in 1995. The Russell Einstein Manifesto saw the use of nuclear weapons in any new world war as inevitable and consequently called for a peaceful settlement of dispute. Importantly with regard to the humanitarian consequences, its authors appealed to the notion of common biological needs of the human species. As they famously put it, calling on the decision makers of their time, “remember your humanity and forget the rest” – remember your humanity and forget the rest.

The Humanitarian Initiative has few other prominent sources of inspiration. It builds on the 1996 Advisory Opinion of the International Court of Justice and although the court found neither the use, the threat of use, nor the possession of nuclear weapons, illegal, it concluded that such actions needed to conform

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with international humanitarian law, with which they were generally deemed incompatible, though – and that’s important – not under all circumstances. Significantly I think, the court mentioned explicitly “an extreme situation of self-defence in which the very survival of a state would be at stake”. Nevertheless, the advisory opinion gave the adherence of the Humanitarian Approach a powerful tool with which to demand change to the nuclear status quo.

Secondly, the proponents of the Initiative attempt to model their efforts after the success of the international campaign to ban landmines. The achievement of that campaign is ascribed particularly to the way in which it mobilised and managed to bring together states and civil society actors, which then pushed their joint agent in various diplomatic [settings - 0:12:16]. Key to the campaign success, so the proponents argued, was following a principle based approach through the means of which a complete weapons system was declared illegal. In short, the road to success lets through a combination of moral and legal arguments which superseded the traditional processes of arms control negotiations, particularly restricted to states [0:12:45]. Now it remains a question whether landmines or cluster munitions and other precedents frequently invoked by the proponents of the Humanitarian Approach, belong to the same category as nuclear weapons. One could argue that while landmines and cluster munitions kill a lot of people individually, what sets nuclear weapons apart is their truly incredible scale and scope on which annihilation will occur. They are also, unlike landmines or cluster munitions, often invoked as the ultimate guarantors of security. But with all these historical precedents, what is then new here? There has been no shortage of moral argument against nuclear weapons and these arguments have always been at least partially but often much more than that, based on the extremely destructive power of nuclear weapons. But to point out the consequences of their use and draw moral conclusions is not very original. This we have known for a long time. What is novel, I think, is the emphasis on the combination of moral and legal arguments, contained in the Initiative. It presents a moral stance, grounded in the belief in the universal consequences

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of nuclear weapons and tries to transform it into an absolute principle of international law. So you take a moral principle with universal consequences and you're trying to enshrine a particular action as an absolute principle of international law. In short, it presupposes that everyone can be reconciled to the dictate of the humanitarian consequences. A legal band, then, must almost logically follow.

The Humanitarian Initiative uses the legal arguments in three ways. The proponents are aware that a legal ban on nuclear weapons would not necessarily lead to nuclear abolition and disarmament. Some states might obviously choose to stay out of such a treaty, just like there are still states that refuse to join the non-proliferation treaty. But a legal band would, so the argument goes, provide a crucial element in the process of devaluing nuclear weapons. The weapons illegal if they would allow for their stigmatisation. The second argument for the legal band is an attempt to address the asymmetric relationship between the nuclear haves and the have nots. By trying to turn the fact of possession of nuclear weapons, which is a matter of a political decision, into a matter of legality/illegality, the have nots are moving towards the reversal of the well-established notion that, and I'm quoting [E.H. Carr - 0:16:08] here, "insistence on the legal validity of international [0:16:16] is a weapon used by the ruling nations to maintain their supremacy over weaker nations on whom the treaties have been imposed" In other words, it's a really skilful reversal, right? International law and law in general has always served the powerful and here it is invoked to actually serve the goals and interests of the have nots. It's a really interesting attempt to – and I'm just referring to [Carr] again - it's a really interesting attempt to exclude the factor of power. Now unsurprisingly then the nuclear weapons states have been very hostile to the Initiative. Finally, and related to the previous point, legal arguments are used to create a political process that could otherwise not exist. So a legal argument is used for political purposes. Simply put, law is used as an instrument of political resistance. Some of the nuclear weapons states tried to argue in fact during the hearings in 1996 in front of the International Court of Justice, that when asked about the legality of the use, the threat of use or the

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possession of nuclear weapons, the court is facing not a legal but a political question. They realise that here law is put to political end and while the court agreed that there were political aspects to the case, it did not prevent it from weighing in on the question of legality and compatibility with international humanitarian law. In short, the nuclear weapons states must defend themselves, legally and politically, in instances where in the absence of the humanitarian approach they would not have had. And I think it's quite indicative that the nuclear weapons states boycotted the first two conferences in Norway and Mexico but in 2014 in Vienna the United States and the United Kingdom did send their representatives, if only to voice their disagreement with the objectives of the Initiative. And it would seem to me also clear that this particular way of arguing makes the democratic nuclear weapons states, except for France perhaps, far more susceptible to this kind of pressure than the other nuclear [0:18:52]. But this is new. I think the legal argument and the way in which it is used in conjunction with the moral objection, is distinct here. That's what it sets apart from the previous attempts to say these weapons are really inhuman.

So why has this arisen now? Let me go a little bit back into the past. In the early 1980s, George Canon expressed regret over what he perceived as the lost sense of urgency with regard to the nuclear matters that in his view characterised the previous decades. As he put it, and I quote, "one senses even on the part of those who today most accurately perceive the programme and are [0:19:47] most exercise about it, a certain discouragement, resignation, perhaps even despair, when it comes to the question of raising the subject again. The danger is so obvious, so much has already been said, what is to be gained by reiteration? What good would it do?". Canon delivered these remarks as he was actually awarded the Albert Einstein Peace Prize. He concluded his speech by recalling the Russell Einstein manifestoes, appeal to remember one's humanity. But his address illustrates very well the persistent nature of the humanitarian approach yet we are still faced with the question about the rise of the humanitarian approach in the last few years. Why has it become so significant now?

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It would be relatively easy I think to dismiss the objectives of the Initiative as unobtainable or unrealistic. There is, I think, some evidence to reach that conclusion. After all, I think it would be putting it rather mildly to state that reaction from the nuclear arms states has not been sympathetic, indeed it has been hostile as I have said, because it questions not only their moral obligations, or choices, but also because it questions their fulfilment of the [0:21:26] agreements. It has, moreover, not only been the nuclear weapons states who have resisted, but also their [0:21:37]. None of the NATO states for instance has formally endorsed the Pledge, even though Norway sponsored the very first conference. In short, the prospects of success are bleak, no matter how much enthusiasm there may be among the Initiative support. Now such critique though I think would be actually missing the point.

The Humanitarian Initiative, and this is where I get to why now, is precisely a product of frustration, stemming from the lack of progress on nuclear disarmament within the framework of the existing institutions of the non-proliferation [0:22:23]. While the adherents are very careful to stress that their goal is not to undermine these institutions, there is a palpable sense that they must be given a new impulse. Indeed, the Humanitarian Initiative is increasingly seen by many as the only possible way of moving forward on nuclear weapons. This is so because the conference on disarmament in Geneva continues to be deadlocked, for I don't know what it is, 19 years and running or something like this. Grotesque, really. The [NPT - 0:23:10] review conference last year reached no consensus result at all. It follows essentially the pattern of success and failure. It gets almost nowhere. The [NPT] has never brought any tangible progress on nuclear disarmament. Viewed from such perspective, the Humanitarian Initiative, fresh of a series of conferences and other high profile motions, especially at the United Nations, appears to have the momentum that manifestly does not exist elsewhere. In fact, this momentum and the [buzz - 0:23:56] that has been created by the Initiative are frequently presented by the people who support it as its chief achievement so far.

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Now this preoccupation was the momentum however, represents one of the key and probably fairly immediate problems facing the Initiative. What exactly, you might ask, is going to happen as the momentum exhausts itself? And I think this is inevitable because the campaign has so far enjoyed the advantages what the economists would refer to as the extensive growth. So you quickly pick up the low hanging fruit until of course there is no low hanging fruit anymore. As the momentum vanishes, maintaining or regaining it, risks becoming the chief objective instead of the focus on the actual subject matter and I think what's going on in Geneva at this time is a precisely good example of that. What's meeting there is, I believe it's called – actually I don't believe, I know – it's called the Open-Ended Working Group. Open-ended Working Group, there is no end to this. It might be in this context worthwhile to consider the parallel lists of comprehensive [0:25:25], the ratification of which has practically stalled after the initial wave of countries ratified. But I don't think that analogy is accurate enough because the CTBT, the Comprehensive Test Ban Treaty, at least did establish a norm against nuclear weapons testing. Now the larger argument that I'm making here, and this is why it's so important, is that if – and I think I'm quite right on this – if the Humanitarian Initiative is a response to the frustrations produced by the lack of movement towards nuclear disarmament, within the current structures, it serves precisely as a palliative but not as a remedy. In turn, if the Initiative is a near palliative, the nuclear weapons states will be happy to let it run its course, or even prolong the period during which the placebo will be in effect. That this could be the case I think is suggested not only by the presence of some of the nuclear weapons states at the meeting in Vienna in December 2014, but also by the reluctance of their allies to pursue the Humanitarian Initiative and I think a good example here is Australia – a country that has done quite a bit, Nick's old mate, Gareth Evans, in conjunction with Japan has tried to push the case of nuclear disarmament on all this and yet in February 2014 the then Australian Foreign Minister, Juliet Bishop, wrote ahead of one of the conferences on the Humanitarian Initiative that “we must engage, not enrage, nuclear countries”. In other words, not too fast. And if you've seen the latest

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issue of the [0:27:28] Journal where it had the [0:27:32] as an incredible article on this, it's nothing against her, I think she is indicative of a very important argument that exists, 'yes, we're sort of in favour of the Humanitarian Initiative but not at this time and not too quickly'. I mean she literally uses the 'not at this time'. It's commendable. I mean it's one of these things. But I think what this leads to then is that the Humanitarian Initiative seen in this light might be actually doing – and this is really crucial – far more for the maintenance of the status quo than its adherents would probably wish to admit and this is really crucial. That's where actually it gets to an important conclusion. It actually might be [0:28:22] the prolongation of the status quo rather than challenging it.

Now that gets me to the third and final question. Can the Humanitarian Approach work? Even though it's raised a good deal of enthusiasm, its proponents surprisingly freely admit that achieving the ultimate goal of nuclear disarmament is unlikely. They have spent enough time dealing with the nuclear weapons states to have developed proclivity for satisfying themselves with minor improvements and initiatives. Being engaged in a process – that's the key word, 'process'; if you go to any of these meetings, process is the king or the queen – being engaged in the process tends to be more important than any perspective results. To this end, the Humanitarian Approach meets the necessary requirements. It has created a new process, newer venues to rehash the old argument, new sources of funding. To put it simply, the Humanitarian Approach fits well with what the mode of operation of what Campbell Craig and myself have called 'the non-proliferation complex'. But there are at least two other significant reasons in my view that casts some doubt over the prospects of the Humanitarian Initiative. Both of them can be traced to the combination of moral and legal claims which it puts forward and their universalistic nature. In other words, I think there is something much more deeper going on here than just parochial organisational and other interests. I think actually it might be flawed at the core and that is the flaw in the combination between the moral and legal claims which it puts forward, and their universalist nature. Firstly, the humanitarian consequences of the

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use of nuclear weapons are presented as part of the effort to undermine the narrative behind nuclear deterrent. Stressing the humanitarian costs of potential nuclear explosions, deliberate or accidental, serves the dual goal of devaluation and stigmatisation of nuclear weapons. Now the underlying premise of efforts to devalue and stigmatise is that nuclear weapons have no value of their own but merely that which is socially ascribed to them. So far so good. But even if you accept this premise that it is the social ascribed value, I think the Humanitarian Initiative's argument actually disregards actors' relative roles and situations. In other words, the universalist claim that's behind this loses sight of actors' relative roles and situations. Now these roles and situations differ according to the actors' positions within the international system and as a result of their internal political preferences and choices. In other words, in its universalist zeal, the Humanitarian Approach overlooks the possibility that in a world of pluralistic political actors, the value of nuclear weapons is relative and likely to differ. It's relative and likely to differ. Now the same actually I think applies of course to actors' relative willingness to suffer stigmatisation. I think here it's illustrated by the cases of the four countries that are holdouts from the non-proliferation treaty – India, Israel, North Korea and Pakistan – amply demonstrate this relative willingness to suffer stigmatisation. Even though these four countries are not put under equal amounts of pressure, as anyone who would compare the treatment that India gets and North Korea gets are readily recognised. But I think where this disregard for the relative willingness to suffer stigmatisation and the relative value ascribed in nuclear weapons becomes really important, is that the elimination of nuclear weapons in the view of people connected with the Initiative, is logically based on the conclusion that the relative value of these weapons will equal zero among all actors and they will wish not to be stigmatised. Now I think this is totally implausible, so long as the international system remains a system of sovereign states.

The second flaw I think rests on the idea that the problem of nuclear weapons can be resolved by illegal means. The problem of nuclear weapons is inescapably the problem of their political control. Here I think Carr, EH Carr,

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remarked about “the ultimate authority of law which is derived from politics is particularly [0:34:23]”. The proponents of the Humanitarian Approach mistake, in my view, what they take to be a universal moral claim – that is nuclear weapons must not be used because of their inhuman consequences – for a political principle that must guide everyone’s action. The fact that they aim to gain legal recognition of this moral claim, which would further sanction it, shows that they are not quite certain about the moral claims per se. It may be true that nuclear weapons are the only type of weapons of mass destruction that is not yet legally banned. But, and this is really important, it does not follow that the existence of a legal ban would lead all actors to act politically in an identical manner.

The Humanitarian Approach, to finish on a little bit more positive note, I think clearly contains emancipatory ambitions and its combination of moral and legal arguments, the combination itself, is [0:35:40]. But it would do well I think to heed the scepticism and wisdom of classical realism when it comes to encounters between morality, international law and international politics. From the classical realist perspective, the danger here is obvious – instead of doing something about actual nuclear disarmament, diplomats, international lawyers, the global civil society and so on, will spend the foreseeable future discussing whether nuclear weapons are or are not compatible with international humanitarian law. In the meantime of course, the nuclear weapons states will carry on with their ongoing upgrades of their nuclear arsenals. In the eyes of some observers, engaging in a lengthy, seemingly endless and once again open-ended working group process, might be a good enough result. It would keep the question of nuclear disarmament alive while re-injecting it with some enthusiasm, hope and purpose. But the process itself is unlikely I think to achieve the proclaimed goal of nuclear abolition. This is so because the legalistic argument which follows from the claims about the moral unacceptability of nuclear weapons, actually reinforces the current structure of international politics. And it is precisely the structure comprising of sovereign states that has let humanity to work the nuclear condition. This is the classical security dilemma that [0:37:22] have written so much about. The

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attempt to draw states into the process – once again the process is the queen or the king – is fraught with the danger of the process being dominated by states interests that will override the humanitarian [0:37:43]. Already, as I have noted, there are tensions and warnings not to proceed to far, too quickly, because some states might get upset and abandon the initiative as too radical. But any effort that would address the nuclear condition has to be radical, given the radical and revolutionary nature of nuclear weapons. Thank you.

[APPLAUSE]

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