

THE HAGUE AND OTTAWA CONVENTIONS: A MODEL FOR FUTURE WEAPON BAN REGIMES?

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"In the history of the world, it will be the first time, I think, that representatives of almost every civilized country are seen to meet peacefully, without a dispute to settle, without complaints to be redressed, without any thought of personal advantage, and this in the two-fold and liberal purpose of perpetuating harmony and softening the evils of war, or of regulating it for the day when it cannot be avoided."

President of the First Commission Plenary Meeting of the First Hague Peace Conference, May 26, 1899.²

"I welcome you to this historic conference. For the first time, the majority of the nations of the world will agree to ban a weapon which has been in military use by almost every country in the world."

Canadian Prime Minister Jean Chretien, on the occasion of the Treaty-Signing Conference for the Global Ban on Anti-Personnel Landmines, December 3, 1997.

Just as the 19th century closed with the 1899 First International Peace Conference, held in The Hague, the Netherlands, calling for a ban on certain weapons, such as dum dum bullets and chemical gases, so is the 20th century coming to an end with the entering into force of the Ottawa Treaty banning anti-personnel landmines.³ What is remarkable about the two agreements is that they were created through

similar processes: each lacked the support of many major state powers, each was negotiated by majority voting, and each was achieved in a very short time frame.

In a series of convention meetings between May 18 and July 29, 1899, state delegates to the Hague Conference negotiated three conventions and three declarations that attempted to alleviate the negative humanitar-

ian effects of high levels of war. The Hague conventions augmented and further codified and strengthened previous existing international humanitarian law, while the declarations continued the disarmament process begun with the 1869 Declaration of St. Petersburg, which prohibited the use of certain projectiles in wartime and was "the first formal agreement prohibiting the use of certain weapons in war."⁴ The three

Hague declarations banned the practice of dropping explosives from hot air balloons, the use of chemical gas, and the use of dum dum bullets. Today, the Hague declarations are considered customary international law and as "such they are also binding on states which are not formally parties to them."⁵

The Ottawa Treaty development process began during a meeting of the Review Conference of the 1980 Convention on Certain Conventional Weapons (CCW, also known as the Inhumane Weapons Convention), held in Geneva in early 1996. At that time, Protocol II to the CCW was the only existing international law regarding anti-personnel landmines.⁶ The review was originally called by the UN General Assembly to explore other international legal mechanisms for controlling the use of landmines in order to reduce harm to innocents during war and in post-conflict societies. The CCW Review Conference negotiations only considered restrictions on, not a prohibition of, the use of landmines. The delegates believed that by addressing issues of scope, duration of unmarked mines, anti-detector mines, and transfer restrictions, they could reduce the gravity of the landmine problem.

Since the issue of banning landmines could not get on the CCW agenda, Canada and other like-minded states, including Austria, Belgium, Denmark, Ireland, Mexico, Norway, and Switzerland, called for the creation of a new regime to be negotiated outside the CCW.⁷ The landmine ban negotiations, more commonly known as "the Ottawa process," eventually culminated in the Ottawa Treaty outlawing anti-personnel landmines

signed by 122 states in December 1997. Currently more than 130 states have signed and more than 60 have ratified the treaty.⁸ It entered into force March 1, 1999, faster than any other major treaty in the world's history.⁹

Academics, diplomats, and non-governmental organization (NGO) representatives call the Ottawa Treaty's genesis and negotiations an innovative model for future multilateral discussions.¹⁰ Even the Nobel Committee recognized this unique coalition by awarding the International Campaign to Ban Landmines (ICBL)¹¹ and its coordinator Jody Williams the 1997 Nobel Peace Prize, in part for helping to create a fresh form of diplomacy.

Following a standard terminology in International Relations, I refer to the products of the Hague and Ottawa processes as "regimes." I use the term regime to refer to the creation of normative behavioral standards regarding certain issues for states to consider and hopefully follow.¹² The norms established by the regimes imply prescriptive statements of obligation and rules,¹³ which, in turn, provide universal norms of behavior for states to follow.¹⁴

In this article I examine the diplomatic processes that created the Hague and Ottawa regimes, making two general arguments. First, I argue that the Ottawa diplomacy process is not as new as some have thought. I suggest that eight of the major Ottawa Treaty negotiating strategies are similar to those used in developing the Hague Conference declarations. To further highlight these similarities, I present several tables that compare the Hague and

Ottawa characteristics to those of other weapon prohibition regimes, such as the Biological Weapons Convention (BWC), the Chemical Weapons Convention (CWC), the CCW, and the Treaty on the Non-Proliferation of Nuclear Weapons (NPT). The eight similarities between the Hague and Ottawa regime creation processes that this article identifies are the following:

- (1) The negotiations that created both regimes were convened at the invitation of an international political leader;
- (2) Both regimes were negotiated by majority voting procedures;
- (3) Both regimes were established without verification measures;
- (4) Both regimes were initiated for the broader purpose of a more peaceful international society;
- (5) Both regimes were negotiated on a fast-track process;
- (6) Both regimes were opposed by major powers;
- (7) Both regimes were encouraged and supported by public opinion and NGOs; and
- (8) Both regimes had clear, simple, and consistent prohibitions.

My second, and more important, argument is that the Hague and Ottawa processes provide lessons for future negotiations. These processes are in contrast to standard methods for negotiating multilateral regimes, which usually incorporate the following features:

- (1) Negotiations to create regimes convene at the initiation of international organizations;
- (2) Regimes are negotiated by consensus methods;
- (3) Regimes, especially those concerning arms control, have verification measures;

- (4) Regimes are initiated due to state self-interest with respect to security;
- (5) Regimes are negotiated by a long, slow process that may last decades;
- (6) Regimes are promoted and supported by major powers;
- (7) Participation in regime creation is limited to states; and
- (8) Regimes usually have complicated and inconsistent rules that allow states wide interpretation and flexibility.

The Hague and Ottawa alternatives to these strategies offer insights into the relative advantages and disadvantages of different approaches to weapon restriction negotiations.

While this article examines the processes that led to the achievement of the Hague and Ottawa regimes and the potential implications for future weapon prohibition regime construction, it does not seek to evaluate the contents or effectiveness of the Hague and Ottawa regimes. These are important issues that merit further research, but the

goal here is to maintain a narrow focus on the process of regime creation with respect to potential weapon bans.

**HAGUE AND OTTAWA
REGIME CREATION
STRATEGIES**

In this section, I demonstrate eight similarities between the Hague and Ottawa negotiations, and discuss the degree to which they contrast with the negotiations on four other multilateral arms control regimes—the NPT, BWC, CCW, and CWC.

(1) Call for Convention by an Individual State Leader

The first similarity in the Hague and Ottawa processes is that both began at the behest of a state leader. Tsar Nicholas II of Russia and Foreign Minister Lloyd Axworthy of Canada were the state leaders, each of whom had recently come to power, who called for the Hague and Ottawa negotiations, respectively. In contrast, most international negotiations on weapon restrictions today

are initiated at the request of international institutions rather than states (see Table 1).

The Russian government had a history of calling international conferences dealing with weapons. In 1868 it called for a meeting in St. Petersburg to discuss the fundamental rules of war, after it had heard from its military leaders that exploding bullets were causing gratuitous and unnecessary suffering to soldiers. The meeting produced the St. Petersburg Declaration, which renounced “in case of war among themselves, the employment by their military or naval troops of any projectile of a weight below 400 grammes, which is either explosive or charged with fulminating or inflammable substances.”¹⁵ This declaration “formulated, both explicitly and implicitly, the principles of distinction, military necessity and prevention of unnecessary suffering.”¹⁶

Nearly 100 years later another individual state leader, Canadian Foreign Minister Axworthy, also called for an international weapon prohi-

Table 1: Genesis and Site of Weapons Convention Negotiations

CONFERENCE/TREATY	INVITATION EXTENDED B	CONFERENCE HOST
First Hague Conference	Tsar Nicholas II	Netherlands
Second Hague Conference	Tsar Nicholas II	Netherlands
Biological Weapons Convention	United Nations (UN) General Assembly	UN Conference on Disarmament ¹⁷
Chemical Weapons Convention	UN General Assembly	UN Conference on Disarmament
Convention on Conventional Weapons	UN General Assembly ¹⁸	UN General Assembly Preparatory Conferences
Non-Proliferation Treaty	UN General Assembly	UN Conference on Disarmament
Ottawa Treaty to Ban Landmines	Foreign Minister Lloyd Axworthy	Canada

bition regime. The Ottawa Convention creation process started after he called on states to sign a comprehensive landmine ban treaty in order to reduce human suffering caused by mines and encourage world peace. Axworthy capitalized on the public support for a ban by bringing together a mix of state and non-state actors in order to push the Convention. Axworthy credits this “genuine partnership” in moving the issue at a speed “unheard of in traditional disarmament negotiations.”¹⁹

Axworthy also focused on a clear and simple message and maintained the principled goal of encouraging human security. The Hague Conference, similarly, was convened in order to pursue humanitarian values and reduce human suffering. In calling for the Hague Conference, Tsar Nicholas wanted to reduce human suffering and ensure world peace. He also encouraged other states, such as the Netherlands, to invest diplomatic and financial capital in developing and promoting the regime. In sum, both Axworthy and Tsar Nicholas placed the weapon ban issue on the international diplomatic agenda and pushed through state support for its achievement.

This suggests that a major individual state leader, such as

Axworthy or Tsar Nicholas II, needs to step forward and play an entrepreneurial role in creating a weapon prohibition regime. These individuals also need to have certain qualities that makes states want to follow their lead. Some International Relations scholars argue that transnational entrepreneurs need to be important decisionmakers themselves or have the ability to influence such decisionmakers to move an issue in the international arena.²⁰ Axworthy and Nicholas seem to fit both requirements of a transnational entrepreneur.

(2) Majority Voting

In the major international disarmament forums, such as the CCW and the Conference on Disarmament (CD), no decisions are accepted without complete consensus. The CCW negotiations are characterized by a lowest-common-denominator approach, while the CD negotiations take decades due to their consensus format. In 1997, for example, Mexico led the non-aligned countries in blocking the attempt to put the landmine issue on the CD agenda, because it believed that “top priority should be given to concrete steps toward total nuclear disarmament, and only then would

they be ready to work on other issues including landmines.”²¹ Mexico also preferred discussing the landmine ban through the Ottawa Convention creation process rather than the CD because it feared that a ban would take longer to achieve in the CD.²² Since several other non-aligned states in the CD also opposed putting landmines on the CD agenda, it would not have been possible to negotiate a landmine ban within a consensus-based forum such as the CCW or CD.

Consensus-based voting at international conferences is a relatively recent phenomenon.²³ There are various definitions of consensus-based voting but all require that all negotiating parties must approve of the resolution in some form.²⁴ Resolutions are adopted only “when no participant opposes it so strongly as to insist on blocking it.”²⁵ The Law of the Sea Convention, for example, defines consensus as “the absence of any formal objection.”²⁶ In consensus-based fora, there is often no equivalent of a roll-call vote, since a “consensus approach does not seem reconcilable with the taking of votes.”²⁷

The Ottawa and Hague regimes were negotiated utilizing majority-based rather than consensus-based

Table 2: Hague and Ottawa Voting Records

DECLARATION/TREATY	NUMBER OF STATES SIGNING ²⁸	PERCENTAGE OF PARTICIPATING STATES SIGNING
Declaration One	25	96%
Declaration Two	24	92%
Declaration Three	23	89%
Ottawa Treaty ²⁹	122	78%

procedures. Majority voting was used to pass the Hague Declarations. Moreover, most votes taken during the Hague negotiations did not have unanimous approval (see Table 2). Since there were only two opposing votes, the United States and the United Kingdom (on two of the three declarations), the Hague voting outcome is characterized as “unanimity less two votes” or “quasi-unanimity.”³⁰

For example, the US delegation did not sign Declaration Three, which calls for the banning of expanding bullets, because it believed that the declaration’s wording was so detailed as to potentially limit the declaration’s effectiveness in covering bullets not yet developed. The majority defeated the American proposal for less specific language.³¹ During the declaration’s negotiations, a European delegate observed it was his “duty to declare that he regrets that the United States cannot agree with the majority” and “that it is best to deal here with existing projectiles and not with future inventions that are at present unknown.”³²

The United Kingdom joined the United States in opposing Declaration Three, but for an entirely different reason: it wanted to reserve right to use such bullets against “savages.” The British delegate, Sir John Adragh, argued:

There is a difference in war between civilized nations and that against savages. If, in the former, a soldier is wounded by a small projectile, he is taken away in the ambulance, but the savage, although run through two or three times, does not cease to advance. For this reason the English delegate demands the liberty of employing projectiles of

sufficient efficacy against savage races.³³

Germany, too, initially refused to support the disarmament declarations, for two reasons. First, “[t]he German arms manufacturer Krupp was Europe’s largest single business,” and Germany was reluctant to circumscribe Krupp’s economic interests. Second, “Germany’s militant Kaiser Wilhelm II was seeking to rival Britain’s naval supremacy,”³⁴ creating reluctance to agree to any form of arms limitation. Yet Germany eventually signed all three Hague Declarations, while at the same time strongly maintaining its independence to act “in the international sphere.”³⁵

A century later, during the Ottawa regime’s development, majority voting was also utilized. During these negotiations, however, votes were never taken. The knowledge that a vote could be taken appeared to be a very strong deterrent to those who were seeking changes to the core concept of the ban—states needed to know that they could carry a large number of delegates before introducing a proposal. Majority voting, therefore, provided a strong deterrent to those wishing to weaken the regime’s focus on a comprehensive ban.

The majority voting format may have prevented the United States from derailing the landmine ban. The United States participated in the Ottawa Treaty final drafting conference in Oslo, but its delegation came with a series of requests that they wanted to incorporate into the treaty. The demands were presented in a take-it-or-leave-it package consisting of five interlocking components: exception for landmine use in Korea; deferral of the treaty’s entry-

into-force date; changes in the definition of an anti-personnel landmine; more intensive verification measures; and a withdrawal clause from the treaty in cases of national emergency.

The demands were not accepted primarily because the Convention supporters wanted to achieve a ban with no exceptions. The United States said it would sign if its exceptions were granted, and later President Clinton said that “[w]e implored the people there [at the Oslo Final Drafting Treaty Conference] to give us the exceptions we needed.”³⁶

On the other hand, Senator Patrick Leahy (D-VT), a leader of those in the US Congress who wanted to ban landmines, argued against the United States position on the Ottawa Treaty by noting that allowing some states to meet different standards would weaken the stigmatization that a comprehensive treaty could deliver. As he said during the final treaty negotiations, “an effective international agreement that is based on stigmatizing a weapon cannot have different standards for different nations.”³⁷

The significance of non-consensual negotiations is that it offers an alternative to consensus voting procedures, which became a staple of international negotiations during the Cold War so as not to leave out large ideological or regional blocs. Since World War II, the United States and the Soviets/Russians have claimed that consensus rules should be applied to all international conference negotiations.³⁸ The Soviet delegate to the 1946 Paris Peace Conference said that the USSR “will always be proud to defend the necessity of achieving unanimity in the settle-

ment of international problems and considers it inadmissible to abandon this principle.”³⁹ Moreover, the United States is currently seeking to block a Netherlands proposal that calls for substituting majority voting rules for consensus voting rules in the 1954 Hague Cultural Convention.

(3) Lack of Verification Measures

The Hague and Ottawa regimes were negotiated without attempting to create extensive verification provisions. There is no mention of verification measures in any of the Hague Declarations, although the Ottawa Convention does allow for some minimal compliant procedures in case of state violation. It should be noted, however, that verification for accords on weapons such as dum dum bullets and landmines may not be as important as verification for treaties on weapons of mass destruction. Violations of a bullet or landmine ban would not fundamentally threaten national security, while an undetected violation of a nuclear or biological weapon regime could pose a serious threat.

For two reasons, a conscious decision was made during the Ottawa negotiations to achieve a regime with minimal or no verification provisions. Verification provisions were left out, first, in order to attract more states to sign the treaty, as a potential counterweight to major power opposition.⁴⁰ Eliminating verification provisions was intended to reduce states’ fear of meddlesome inspections. This is an especially important factor in the regime’s achievement because the major powers had already expressed their opposition to signing. In response, the core group of states and NGOs working for the ban developed a strategy that called for bringing as many states as possible into the regime to counter major power opposition. Second, verification provisions were also left out because some individuals thought that a state-centered verification system for remote parts of the world, where many landmine accidents occur, would be difficult to make work.

The lack of verification provisions in the regimes could have disadvantages. In a verification-free regime, states may believe that prohibitions could be easily circum-

vented by cheating. This might discourage states from signing the treaties if they fear others will not comply; or states might sign but not worry much about coming into compliance. During the Cold War, verification provisions were an important attribute of arms control because of concerns about cheating (as well as ideological and technical reasons) (see Table 3).⁴¹ Some scholars believe that the lack of verification provisions is the principal problem in many regimes to ban weapons.⁴² Without verification provisions, “[l]egal prohibitions of weapons are mere ploughings of the sand.”⁴³

Despite this argument, however, the Hague and Ottawa regimes hold several important advantages for states that do sign. Most states that sign give up nothing they need to defend themselves. State security does not depend on expanding bullets, on dropping explosives from balloons, on gases, or on landmines. The existence of weapon prohibition regimes, however, gives signatory states a solid moral and political basis for criticizing other states’ ownership or use of these weapons. While these regimes cannot ensure

Table 3: Convention Verification Requirements

CONVENTION	VERIFICATION
First Hague Declarations	None
Second Hague Declarations	None
Biological Weapons Convention	Minimal ⁴⁴ – UN Security Council ⁴⁵
Chemical Weapons Convention	Yes – Organization for the Prohibition of Chemical Weapons
Non-Proliferation Treaty	Yes – International Atomic Energy Agency
Convention on Conventional Weapons	Minimal
Ottawa Treaty	None ⁴⁶

that states will abide by prohibitions on these weapons, they increase the economic and political costs of using them. States that do not wish to be internationally isolated may thus be dissuaded from maintaining stockpiles of these weapons.

Certainly, much arms control scholarship argues that in order for regimes to succeed they have to deal with the "principal problem: verification."⁴⁷ However, other scholars have made a convincing case that concerns for state reputation and identity in the face of increasing numbers of states supporting a ban can foster emulation, which becomes "an increasingly powerful mechanism through which the new norm [is] adopted."⁴⁸ The implication that regimes with minimal verification can be effective in encouraging non-use of particular weapons is significant because it means that near-universal regimes, such as Hague and Ottawa, can lead a majority of states to follow certain ethical standards of behavior.⁴⁹ The point is that even though both the Hague and Ottawa regimes lack verification provisions, they have the potential to be honored by states in a good faith manner.

Both the Hague and Ottawa regimes also reveal that verification provisions in a weapon prohibition regime are not necessary for negotiations to succeed. Their achievement suggests a level of universal agreement regarding banning certain weapons. It may also suggest that regime success is contingent on the destructiveness of the weapon system. For example, states may not be as vulnerable to the negative effects of defection from regimes on lower-level conventional weapons, such as dum dum bullets and

landmines, as they are with respect to weapons of mass destruction.

Moreover, absence of a formal verification system does not preclude, and may encourage, other forms of monitoring. Unique to the Ottawa Treaty is an external effort by NGOs, through the auspices of the ICBL, to evaluate the international response to the landmine situation. Specifically, five NGO members of the ICBL are conducting the Landmine Monitor Program to help implement and enforce the treaty's provisions.⁵⁰ This program is the first systematic effort by NGOs to monitor and report state compliance with an arms control and international humanitarian law convention.⁵¹ One of its goals is to make available a continuous flow of high-quality research and analysis on state landmine activities and policies in order to monitor the implementation of the treaty.

(4) Call for a More Peaceful International Society

The Hague and Ottawa regimes call for humanitarian action beyond the scope of their weapon prohibitions. The Hague regime was concerned with reducing the increasing horrors of war for both civilians and combatants and its deleterious effects on society, while at the same time slowing down the rapidly increasing military armaments industry of the late 19th century. Accordingly, the Russian conference invitations to states said that the major purposes of the Hague Conference were "the preservation of peace"⁵² and to begin "ensuring...the benefits of a real and lasting peace."⁵³ Furthermore, the best way to accomplish "universal peace"⁵⁴ was by "limiting the pro-

gressive development of existing armaments."⁵⁵ In agreeing to host the conference, the Netherlands sent out its own invitation calling for states to convene in The Hague "to seek the most effective means of ensuring to the world a lasting peace, and of limiting the progressive development of military armaments."⁵⁶

The Hague delegates also wanted to incorporate into the convention an international call for a more peaceful society. At the urging of Fyodor Martens, a legal advisor to the Tsar, who wanted to lay down the principle that humanitarian values should be given greater weight than military necessity in those situations where the codified or customary rules do not cover a case, the conference adopted the now famous "Martens Clause." It stated:

Until a more complete code of the laws of war has been issued, the High Contracting Parties think it right to declare that in cases not included in the Regulations adopted by them, populations and belligerents remain under the protection and empire of the principles of international law, as they result from the usage established between civilized nations, from the laws of humanity, and the requirements of the public conscience.⁵⁷

The clause was later incorporated into customary international humanitarian law during the Nuremberg Trials in 1946.⁵⁸ A century later, the Martens clause was also incorporated into the Ottawa Convention's preamble, which stressed the importance of "the role of public conscience in furthering the principles of humanity."⁵⁹ The Ottawa Convention delegates also based their support for the ban
...on the principle of international humanitarian law

that the right of the parties to an armed conflict to choose methods or means of warfare is not unlimited, on the principle that prohibits the employment in armed conflicts of weapons, projectiles and materials and methods of warfare of a nature to cause superfluous injury or unnecessary suffering and on the principle that a distinction must be made between civilians and combatants.⁶⁰

In signing the Ottawa Treaty, states felt that they were making a positive difference in the world, rather than just signing a symbolic treaty. More than 92 percent of the convention participants believed confidently or very confidently that the regime would reduce landmine activities among signatories. Only four percent of the participants believed that signatory countries would not abide by the rules of the ban convention.⁶¹ NGO and government representatives differ, however, as to the generalizability of the Ottawa process to other disarmament issues. Most NGO representatives believe that the process is applicable to disarmament issues, such as child soldiers, while government representatives “were more likely to say that the landmines issue may have

too many unique aspects for it to be replicated.”⁶² This divergence between NGO representatives and state delegates in viewing how to better ensure a more peaceful international society is not unusual in humanitarian initiatives. According to one International Relations scholar, states are more “responders” to individuals and groups than “initiators” on humanitarian issues.⁶³

(5) Fast-Track Negotiating Process

The Hague and Ottawa agreements were each negotiated in a relatively short time period, especially when compared to other weapon regimes (see Table 4). The first Hague Conference lasted from May 18 to July 29, 1899, while the follow-on Hague Conference assembled on June 15, 1907, and adjourned on October 18, 1907.

The Ottawa Convention negotiations were initiated with Canadian Foreign Minister Axworthy’s announcement at the Ottawa Conference in October 1996, when he called for states interested in signing an immediate ban on landmines to return to Ottawa in December 1997 to join such a regime. The “Ot-

tawa process” refers to the 425-day period between October 1996, when Axworthy called for the landmine ban convention, and December 1997, when the regime was to be finalized. Drafting and negotiating the regime rules during that time period was intensive because of the tight time frame.

Many states reacted to Axworthy’s announcement with surprise, and some even thought it “foolhardy.”⁶⁴ He forced many states to set a firm date for either signing on to an immediate ban or backing off from their previous ban announcements. The United States, for example, had in 1994 called for “the eventual elimination” of landmines in a speech at the UN General Assembly,⁶⁵ but had not yet set a deadline for establishing such a regime. The early deadline set by Axworthy established momentum and pressure. This was a crucial factor in helping Italian NGOs to get Italy to join the regime rather than deliberating further.⁶⁶ Italy’s support was critical to the regime because it was one of the world’s leading landmine producers.

The short negotiating time-frame was also important because it com-

Table 4: Convention Negotiating Time Periods (in months)

CONVENTION	NEGOTIATIONS STARTED	TREATY SIGNED	TOTAL MONTHS
1899 Hague Conference	May 1899	July 1899	3
1907 Hague Conference	June 1907	October 1907	5
Biological Weapons Convention	July 10, 1969 ⁶⁷	April 1970	21
Chemical Weapons Convention	December 1969 ⁶⁸	January 1993	38
Non-Proliferation Treaty	1956 ⁶⁹	1968	>100
Convention on Conventional Weapons	September 1974 ⁷⁰	October 1980	73
Ottawa Treaty	October 1996	December 1997	15

pounded public pressure and pushed government representatives into moving quickly beyond procedural issues to achieve an agreement. For example, the Ottawa regime agenda was clear—a comprehensive ban with no exceptions. States could either sign on or not. The short time-frame forced many governments to declare earlier than they otherwise would have their support for the regime. This in turn quickened the achievement of the Ottawa Convention by creating a bandwagon effect as states signed on so as not to be left out or politically vulnerable back home.

While the quickness of the Ottawa regime shattered the time-frame for modern-day weapon negotiations, the Hague regime was negotiated even faster, taking only three months. The significance of the fast-track negotiating process may be that diplomatic culture and public impatience will no longer tolerate long, drawn-out negotiations on an important issue. It may also imply that current international conference negotiations, which can take decades to negotiate an agreement, are not appropriate to address immediate crises that affect international security.

(6) Opposition from Major Powers

The main multilateral nuclear, biological, and chemical weapons regimes of the Cold War era—NPT, BWC, CWC—had the support of both superpowers and were eventually signed by all of the permanent members of the UN Security Council. The Hague and Ottawa regimes, in contrast, were opposed by key major powers. During the Hague process, the greatest power of the time,

Great Britain, and a major rising power, the United States, did not sign two of the three declarations. Both opposed these declarations for different reasons, as discussed in the majority voting section above.

Similarly, the Ottawa regime lacked major power support. During the Ottawa process the attempts of major powers, especially the United States, to stop or weaken the treaty were limited. The United States did not take the Ottawa negotiations seriously until late in the process, when the treaty was already nearly completed. There was a belief among some in the US delegation that only arms control negotiations led by the United States could be successful. One senior congressional aide, who worked on the landmine issue, said that the American position on landmines “was arrogant and kind of naive. They have been pooh-poohing this effort for months, only to find that they have been left behind.”⁷¹ The slow US reaction to the Ottawa process provided mid-size states with the opportunity to push the comprehensive ban without major power opposition. By the time the United States expressed its interest in making the treaty less comprehensive and switching the negotiations to the CD, it was too late.

The Ottawa process was driven by middle powers, such as Canada, Norway, and South Africa, and non-state actors, such as the International Committee for the Red Cross (ICRC) and the ICBL. This unique coalition was brought about in part because of the end of the Cold War, in which most states had been tied up in security alliances beholden diplomatically to one of the ideological antagonists. The Cold War’s end allowed greater freedom for non-

major states to maneuver diplomatically in the international system. The strategy of the middle powers was to work with the NGOs to build public pressure on states to sign. The regime process started in 1996, when 14 pro-ban states initiated discussions during the Geneva CCW Review Conference to explore the commonalities in their positions and discuss how best to approach reaching a ban.

The significance of major powers failing to prevent the Hague and Ottawa regimes is that it shows that they do not have to lead or even support an international lawmaking process in order for the international community to create a weapon prohibition regime. Indeed, these regimes show that non-major states can achieve weapon ban regimes even in the face of active major power opposition.

Although great power non-compliance obviously limits a regime’s benefits, it is still important for the majority of states to act when they see a need to establish norms in a given issue area. Incorporating weapon ban norms into customary law may provide the best path to legally bind major powers and other non-signatory states. Despite objections from major powers, both the Hague and Ottawa regimes have become either customary law or nearly universal codified norms.

Moreover, even though the major powers did not sign the Ottawa Treaty, its achievement has influenced their landmine policies. The United States, for example, has recently stated that it will cease using landmines by 2006 if military alternatives to its current systems are developed.⁷² Furthermore, China⁷³ and Russia⁷⁴ both claim that they

now adhere to unilateral export moratoria.

Robert Keohane has argued that major power support is important for creating international regimes, but that regime effectiveness is not contingent upon continued major power participation.⁷⁵ The formation of the Hague and Ottawa regimes, however, highlights that major powers are not essential even for the formation of regimes.

(7) Importance of Non-Governmental Organizations

The spread of democracy during the 19th century gave state governments an incentive to pay more attention to public opinion. By the late 1800s, Western governments were being encouraged and pressured by private individuals, peace groups, and professional associations of lawyers, teachers, and legislators to discuss peace in a multinational forum.⁷⁶ Some peace groups believed that they had directly influenced the Tsar to call the Hague Conference. Dr. W. Evans Darby, secretary of the London Peace Society, "had sent his book on international arbitration to the Tsar" before the calling of the conference, and peace groups had petitioned the Tsar to "summon a conference to limit armaments."⁷⁷

The Hague Conference originally convened without a name, but state delegates soon adopted, without a vote, the "Hague Peace Conference" title since the general public had already designated the conference's laws-of-war agenda as one of peace.⁷⁸ The delegates knew that public opinion was monitoring the negotiations and expected them to produce a peace plan. On May 20, 1899, at the second meeting of the Plenary Conference, the president

of the Conference, Mr. Staal, said that the conference "cannot fail in the mission incumbent upon it; its deliberations must lead to a tangible result which the whole human race confidently expects."⁷⁹

After the Hague Conference, the European and North American NGOs united into the International Peace Bureau (IPB), which sought to bring under one umbrella "national peace societies that had gradually developed, mainly in Europe and North America, from the end of the Napoleonic War onwards."⁸⁰ Working from its main headquarters in Berne, Switzerland, it lobbied governments on disarmament issues. The IPB's diplomatic approach to governments—"bourgeois pacifism, i.e. heavy emphasis on the development of international law, disarmament and the peaceful settlement of conflicts"—eventually led them to enter "into dialogue with Tsar Nicholas II, urging him to establish an International Peace Conference, an idea that eventually came to fruition with the reconvening of the Hague Conference in 1907."⁸¹

A century later, the foundation for the Ottawa Convention was created by NGOs concerned about the humanitarian effects of landmine use. In 1991, the issue started gaining international attention, when Bobby Mueller of the Vietnam Veterans of American Foundation and Thomas Gebauer of the German medical-relief organization MEDICO co-founded the ICBL in order to galvanize the international community toward banning landmines. Several years later, the ICBL began assisting Canada and other pro-ban states in the international negotiating process by providing valuable information and by pressuring states

to support the ban. In particular, the ICBL planned and conducted conferences and meetings to help draft recommendations for the leading pro-ban states. It also participated as an active member of several draft treaty working conferences.

Another ICBL achievement was to help mobilize governmental and public support for the Ottawa Convention. Axworthy recognized the importance of the NGOs in helping to create the regime, when he stated at the October 1996 Conference calling for a ban that the NGOs "are largely responsible for our being here today. The same effective arguments you used to get us here must now be put to work to get foreign ministers here to sign the treaty."⁸²

One government delegate to the Ottawa negotiating process observed that when consensus rules are applied, the NGOs are isolated from the negotiating process.⁸³ This may be a possible reason for the intense NGO participation in the Ottawa process. It allowed the NGOs to carry their ban message into the treaty negotiations without the threat that states would compromise the ban position in order to reach consensus.

The NGO influence in the Ottawa regime's creation and development demonstrates that states need information and services that NGOs can provide. It should be noted here that the CWC also had the support of many non-state actors, including both NGOs and members of the chemical industry. The implication is that states should learn to become team players with NGOs rather than continuing to remain isolated in a state-centric process. The exclusion of NGOs from international weapon

regime development may no longer be a feasible policy. In addition, closed-door negotiating forums such as the CD may no longer be appropriate for the international community to solve its problems and reach cooperative agreements.

There can be downsides, however, to open diplomacy. First, expected criticism from hawks and nationalists at home potentially reduces compromise. Secondly, secret side-deals on non-regime issues, which can help to overcome differences and push agreements forward, may no longer be politically viable.

Regardless of the downsides of open diplomacy, there was also a clear benefit: the Hague and Ottawa delegates felt international public pressure to conclude a weapon prohibition agreement. In a small survey of government negotiators conducted the day after the Ottawa Treaty was signed:

[a]ll the participants portrayed the role of NGOs throughout the process as invaluable and atypical with respect to the high degree of NGO/government cooperation [and] [t]he fact of having NGOs at the table during the treaty negotiations was cited as a 'powerful force' in influencing policy decisions.⁸⁴

Similarly, during the Hague process, public opinion encouraged delegates to accept the public's title for the conference—Hague Peace Conference.⁸⁵

(8) Simple, Clear Message

The Hague and Ottawa regimes have very clear and simple-to-understand prohibitions. One of the reasons that the British request for an exception (when dealing with "savages") to the Hague prohibition on

exploding bullets was not supported was because it would complicate the ban message. As a delegate opposing the British position responded:

To have two kinds of projectiles, one for savages and the other for civilized peoples would be complicating the armament. It is possible to contemplate the case of soldiers stationed outside of Europe and armed with bullets for use against savages, who would be called upon to fight against the regular troops of a civilized nation. They would have to wear two cartridge belts.⁸⁶

The Ottawa regime, similarly, never swerved from its original intention to ban landmines. The issue was simple—"Ban Landmines." The message did not concern the difficulties of managing the use of the weapon. If management of landmines, rather than a ban, was the regime's goal, it most likely would not have been signed within 14 months.

An outright, comprehensive ban clearly signified the exact objectives the Ottawa regime was trying to achieve. The concept of a ban can be easily translated and understood in any language or culture, while complex and ambiguous restrictions not only make weak law, but also invite cynicism and fatalism.⁸⁷ For example, the CCW Landmine Protocol is confusing to interpret: Article 3(3) specifically forbids the "indiscriminate use" of landmines, but article 3(4) conditions this injunction by insisting only on "feasible precautions...which are practical or practically possible taking into account all the circumstances ruling at the time, including humanitarian considerations."⁸⁸ Applied to the international legal arena, these concepts may have very

different interpretations and meanings in different cultures and languages,⁸⁹ thereby further confusing an already confusing document. A simple, clear ban is easier both to negotiate and to implement, as there can be no doubt about what activities constitute a violation.

CONCLUSION: HAGUE AND OTTAWA AS A MODEL FOR THE FUTURE

In this article, I have examined the diplomatic processes that led to the Hague and Ottawa regimes. The lessons learned from these processes may be applicable to other issues of grave concern to the international community, such as child soldiers and small arms.

I have not sought to assess the contents or effectiveness of the regimes or what they contribute to international security. These are important questions for further research, but I have focused here on the processes that were useful in achieving the Hague and Ottawa regimes, and how they contrast to typical multilateral processes.

This alternative process to negotiating regimes starts when an international political leader initiates international diplomatic discussion on a specific issue in order to achieve a more peaceful international society. To ensure achieving the regime, the negotiations should adhere to a strict timeline for reaching agreement, which, in turn, should be based on non-consensus voting. Moreover, the process may work best when states form a sincere partnership with non-state actors, such as NGOs, and the prohibition message is simple and clear. Lastly, if it is necessary to overcome major state opposition, verification provisions

should be minimized in order to generate regime support from a larger number of states and to counterbalance major power opposition.

The “new” process provides a model that could be useful in current and future efforts at promoting security prohibitions and restrictions. The Coalition to Stop the Use of Child Soldiers is currently attempting to attach an optional protocol banning the recruitment and participation of child soldiers to the Convention on the Rights of the Child.⁹⁰ Because the issue is being negotiated in a consensus negotiating forum, the United States and other states are able to block its adoption. Most likely, the coalition will be forced to mirror the Hague and Ottawa processes by taking the issue out of a consensus forum and creating a negotiating forum where the voting rules are non-consensus based in order to circumvent the opposition of a minority of states.

Another effort that is based on this “new” process is the Global Campaign on Small Arms and Light Weapons.⁹¹ The campaign is composed of NGOs and seeks to address the problems caused by the proliferation and misuse of small arms and light weapons. The “new” process evidenced by the Ottawa Convention “provided the foundation” for this effort to alleviate the effects of “the widespread availability of light weapons.”⁹²

The claim that NGOs are necessary to moving weapon issues forward on the international agenda may be debatable, since NGO and government delegates to the Ottawa treaty signing have different views. NGO representatives believe that the Ottawa regime development

process is generalizable to other international issues, while governmental representatives say that the uniqueness of the landmine issue lent itself to such a process.⁹³

In addition, the influence of NGOs on international politics is still open to debate. NGO influence levels may be contingent upon the region in which the state is located. For example, 88 percent of the Western government representatives surveyed in a focus group during the Ottawa treaty signing credited NGOs with having a positive influence on their country’s support of the ban. In contrast, only 21 percent of African government representatives stated that NGOs were a positive influence in their country’s decision to sign the Convention.⁹⁴

The creation of the Hague and Ottawa regimes shows the value of moving upstream to earlier stages of the weapons development process in addressing arms control under international law. Because of the enormous financial and human resources needed to produce a weapon prohibition regime, the international community will have to selectively target which weapons to prohibit if it is to be successful. For example, the Global Campaign on Small Arms and Light Weapons must overcome two challenges that the Hague and Ottawa supporters did not face: first, civilian ownership of light weapons is legal in many states, and second, light weapons have legitimate uses in certain circumstances.⁹⁵ Such obstacles will inevitably attract state opposition and increase the costs of educating the public and governments, because the issue is more nuanced than those addressed by the Hague and Ottawa regimes.

Because instituting weapon prohibition regimes requires such great effort, the international community will have difficulty banning weapons already in use. Instead, states should consider banning and restricting weapons currently in development, in order to reduce political opposition and lower implementation costs. Perhaps there should be a clearer legal obligation for states to review their weapons currently on-line. Such a case occurred when the ICRC and Sweden proposed an amendment to the CCW to ban blinding laser weapons, and it was adopted by states parties as Protocol IV. One of the reasons for the protocol’s quick adoption was that many laser weapons were still under development and not yet in widespread use. While these discussions were taking place, the United States implemented a ban on weapons designed to blind enemy forces and canceled production of laser weapons that were “to be mounted atop M-16 rifles.”⁹⁶ One of the reasons given for the change in laser weapon policy was that the Army could no longer justify the weapon on conceptual or policy grounds.⁹⁷

International weapon prohibition regimes are helpful to states because they help codify international law. When international regimes are accepted by a large number of states they establish an increasingly accepted norm of behavior. As the chairman of the CCW Review Conferences stated in his opening speech, “law brings a degree of authority and observance to commonly held values.”⁹⁸ The achievement of the Hague and Ottawa regimes does not provide military advantages to states or help them win wars. Each regime was signed by states, not as

a rational strategic decision, but rather as an affirmation that too many innocents were suffering from weapons of marginal military utility and incompatible with a more peaceful international society.

Very often, both regimes are criticized as not being 100 percent effective. Poisonous gases were used by Hague signatory states on both sides in World War II, and anti-personnel landmines continue to be used by signatory states to the Ottawa Treaty.⁹⁹ Both agreements, however, targeted weapons once considered legitimate and over time eliminated or reduced their use.¹⁰⁰

What is so important about the characteristics of the Hague and Ottawa regimes is that they have changed state behavior, even among the major state non-signatories, in an area traditionally at the heart of state sovereignty: military methods and weapons. As one International Relations scholar notes, once established, "regimes affect related behavior and outcomes."¹⁰¹ The Hague and Ottawa regimes also suggest ways that international society can address uncontrolled weapons proliferation and use in a timely and unified manner. While it is possible to dismiss such regimes because of their remaining weaknesses, it is more valuable to recognize their accomplishments and build on their strengths.

First Commission Plenary Meetings, May 26, 1899, in James Brown Scott, *The Reports to the Hague Conferences of 1899 and 1907* (Oxford: Clarendon Press, 1917), p. 274.

³ Unless otherwise noted, all references to the Hague Convention, regime, or its declarations refer to the First International Peace Conference held in The Hague in 1899. Furthermore, the use of the term "landmines" refers to anti-personnel landmines.

⁴ Dietrich Schindler and Jiri Toman, eds., *The Laws of Armed Conflicts: A Collection of Conventions, Resolutions and Other Documents*, Third Edition (Dordrecht, The Netherlands: Martinus Nijhoff Publishers, 1988), p. 101.

⁵ *Ibid.*, p. 63.

⁶ The Landmines Protocol that was attached to the CCW as Protocol II is officially known as the Protocol on Prohibitions or Restrictions on the Use of Mines, Booby Traps and Other Devices. The two other Protocols were Non-Detectable Fragments (Protocol I) and Prohibitions or Restrictions on the Use of Incendiary Weapons (Protocol III). The CCW Review held in Vienna in September 1996 adopted Protocol IV, which called for restrictions on the use of laser weapons. The four protocols regulate the provisions of the Weapons Convention. This article will only address the Landmines Protocol. United Nations General Assembly (UNGA) Document / 50/326: Secretary General Report on the Convention on Conventional Weapons, August 3, 1995, <Gopher://gopher.un.org/00/ga/docs/50/plenary/326>.

⁷ Robert J. Lawson, Mark Gwozdecky, Jill Sinclair, and Ralph Lysyshyn, "The Ottawa Process and the International Movement to Ban Anti-Personnel Mines," in Maxwell A. Cameron, Robert J. Lawson, and Brian W. Tomlin, eds., *To Walk Without Fear: The Global Movement to Ban Landmines* (Toronto: Oxford University Press, 1998), p. 166.

⁸ International Campaign to Ban Landmines, <<http://www.icbl.org>>.

⁹ *Ibid.*

¹⁰ Maxwell A. Cameron, Robert J. Lawson, and Brian W. Tomlin, "To Walk Without Fear," in Cameron et al., *To Walk Without Fear*, p. 14; Jody Williams and Steve Goose, "The International Campaign to Ban Landmines," in Cameron et al., *To Walk Without Fear*, p. 47.

¹¹ The campaign consists of over 1000 arms control, development, environmental, humanitarian, human rights, medical, and religious organizations representing some 60 countries.

¹² This article uses the term "regime" as defined by Stephen D. Krasner. He defines regimes as "sets of implicit or explicit principles, norms, rules, and decision-making procedures around which actors' expectations converge in a given area of international relations." Stephen D. Krasner, "Structural Causes and Regime Consequences: Regimes as Intervening Variables," in Fredrich Kratochwil and Edward D. Mansfield, eds., *International Organization: A Reader* (New York: Harper Collins, 1994), p. 97.

¹³ Antonio Handler Chayes and Abram Chayes,

"Regime Architecture: Elements and Principles," in Janne Nolan, ed., *Global Engagement: Cooperation and Security in the 21st Century* (Washington, DC: The Brookings Institution, 1994), p. 68.

¹⁴ Dorothy W. Jones, *Code of Peace: Ethics and Security in the World of the Warlord States* (Chicago: University of Chicago Press, 1991), p. 115.

¹⁵ Declaration Renouncing the Use, in Time of War, of certain Explosive Projectiles. Saint Petersburg, 29 November/11 December 1868, <<http://www.lib.byu.edu/~rdh/wwi/1914m/gene68.html>>.

¹⁶ International Committee for the Red Cross, <<http://www.icrc.org>>.

¹⁷ The Conference on Disarmament (CD) was created by the United Nations to negotiate arms control agreements. The CD usually discusses weapons of mass destruction rather than conventional weapons, which is why the UN created the CCW outside the auspices of the CD.

¹⁸ UNGA Resolution 32/152, December 19, 1977.

¹⁹ Lloyd Axworthy, "Towards A New Multilateralism," in Cameron et al., *To Walk Without Fear*, p. 453.

²⁰ Ethan Nadelmann, "Global Prohibition Regimes: The Evolution of Norms in International Society," *International Organization* 44 (Autumn 1990), pp. 479-524.

²¹ Stephanie Nebehay, "West stymied from moving ahead with landmines ban," Reuters, June 12, 1997.

²² Gustavo Capdevila, "DISARMAMENT: Non-Aligned Bloc Attempts to Break Deadlock," Inter Press Service, June 10, 1997.

²³ Robbie Sabel, *Procedure at International Conferences: A Study Of the Rules Of Procedure Of Conferences and Assemblies Of International Inter-Governmental Organizations* (Cambridge: Cambridge University Press, 1997), p. 303.

²⁴ Krzysztof Skubiszewski, "The Elaboration of General Multilateral Conventions and of Non-Contractual Instruments Having a Normative Function or Objective, Resolutions of the General Assembly of the United Nations, Definitive Report and Draft Resolution 61," *Yearbook of the Institute of International Law* 325 (1984 I), quoted in Sabel, *Procedure at International Conferences*, p. 304.

²⁵ Paul C. Szaz, "Improving the International Legislative Process," *Georgia Journal of Internal and Comparative Law* 519 (1979), p. 529, quoted in Sabel, *Procedure at International Conferences*, p. 305.

²⁶ Article 161(7)(e) of the UN Convention of the Sea, quoted in Sabel, *Procedure at International Conferences*, p. 304.

²⁷ Sabel, *Procedure at International Conferences*, p. 305.

²⁸ Voting records are reflective of state positions during the conference. Therefore states signing at a later date are not reflected here. During the 1899 Hague Conference, the Union of Sweden and Norway constituted a single vote until their separation in 1905, when each retroactively signed the 1899 Hague Conference with the signature date of July 1899. For the present pur-

¹ I especially thank Richard Matthew for his helpful comments on an earlier version of this article. I have also benefited from the comments of Jeffrey W. Knopf, Robert J. Lawson, Kim L. Rutherford and two anonymous reviewers.

² Statement by Mr. A. Beernaert, President of the

poses, the Union counts as one vote as the original conference voting records indicate.

²⁹ In the case of the Ottawa Treaty, the figure used for "number of states participating" is 157 states, since that is the number of states that attended the second Ottawa Conference. Lawson et al., "The Ottawa Process," p. 160.

³⁰ Louis B. Shon, "Voting Procedures in International Conferences for the Codification of International Law, 1864-1930," in Gabriel Wilner, ed., *Jus et Societas: Essays in Tribute to Wolfgang Friedmann* (1979), pp. 280-281, quoted in Sabel, *Procedure at International Conferences*, p. 281.

³¹ Sixth Meeting Conference Notes, July 21, 1899, in Scott, *Reports to the Hague Conferences*, p. 82.

³² *Ibid.*, p. 86.

³³ Statement by Sir John Ardagh, First Commission, Fourth Meeting Notes, June 23, 1899, in Scott, *Reports to the Hague Conferences*, p. 286.

³⁴ "The First and Second Hague Conferences on Disarmament, 1899 and 1907," <<http://mailserv.mta.ca/faculty/art.../readings/events/tucker/hague.html>>.

³⁵ Jones, *Code of Peace*, p. 56.

³⁶ Lineuvid Gollust, "Clinton/Canada/Landmines," Voice of America Radio Service, November 23, 1997, <gopher.voa.gov:70/00/newswire/sun/CLINTON_CANADA_LAND_MINES>.

³⁷ Senator Patrick Leahy, "Seize the Moment," *ICBL Ban Treaty News*, September 9, 1997, p. 1, quoted in Lawson et al., "The Ottawa Process," p. 178.

³⁸ There is a fine distinction between "consensus" and "unanimity" based negotiations. Consensus-based resolutions are adopted without a vote, while unanimity-based resolutions are passed by a vote in which all parties agree to the resolution. Sabel, *Procedure at International Conferences*, p. 285. For our argument here, both the Hague Conferences and Ottawa Treaty negotiations used neither, and hence provide a contrast to consensus- and unanimity-based forums currently prevalent in international negotiations.

³⁹ Paris Conference to Consider the Draft Treaties of Peace with Italy, Rumania, Hungary and Finland, 1946, *Collection of Documents of the Paris Peace Conference*, Verbatim Records of the 7th Plenary Meeting, C.P/Plen./7, p. 110 (1946), quoted in Sabel, *Procedure at International Conferences*, p. 283.

⁴⁰ Jody Williams, ICBL Coordinator, broadcast on "Talk to America," Voice of America Radio Service, December 4, 1998.

⁴¹ Stuart Croft, *Strategies of Arms Control: A History and Typology* (Manchester, UK: Bell and Bain Ltd., 1996), p. 59.

⁴² Geoffrey Best, *War & Law Since 1945* (Oxford: Clarendon Press, 1994), p. 308.

⁴³ *Ibid.*, p. 308.

⁴⁴ The BWC verification provisions are currently being re-negotiated.

⁴⁵ States report breaches to the UN Security Council, which, in turn, follows through with an investigation of the claims.

⁴⁶ In the Ottawa Convention, Article Eight ad-

resses "Facilitation and clarification of compliance," but its verification provisions are very minimal. Setting aside the argument that Article Eight may actually entail verification provisions, this paper takes the ICBL point of view regarding the lack of verification in the treaty.

⁴⁷ Best, *War & Law Since 1945*, p. 308.

⁴⁸ Richard Price, "Reversing the Gun Sights: Transnational Civil Society Targets Land Mines," *International Organization* 52 (Summer 1998), p. 640.

⁴⁹ Jones, *Code of Peace*, p. xi.

⁵⁰ While the Landmine Monitor program is coordinated by Human Rights Watch, Handicap International, Kenya Coalition Against Mines, Mines Action Canada, and Norwegian People's Aid, the research was conducted by "in-country researchers, utilizing the ICBL's network of 1,300 non-governmental organizations working in over 80 countries." International Campaign to Ban Landmines, Press Release, May 3, 1999, "Landmine Monitor Report 1999: Toward a Mine-Free World," <<http://www.icbl.org>>.

⁵¹ International Campaign to Ban Landmines, Press Release, October 1, 1998, "Mine Ban Movement Accelerates Into New Phase," <<http://www.icbl.org>>.

⁵² Russian Circular Note Proposing the First Peace Conference, August 12, 1898, in Scott, *Reports to the Hague Conferences*, p. 1.

⁵³ Russian Circular Note Proposing the Programme of the First Conference, December 30, 1899, in Scott, *Reports to the Hague Conferences*, p. 2.

⁵⁴ Russian Circular Note Proposing the First Peace Conference, August 12, 1898, in Scott, *Reports to the Hague Conferences*, p. 2.

⁵⁵ Russian Circular Note Proposing the Programme of the First Conference, December 30, 1899, in Scott, *Reports to the Hague Conferences*, p. 2.

⁵⁶ Circular Instruction of the Netherlands Minister for Foreign Affairs to the Diplomatic Representatives of the Netherlands, Invitation to the Conference, April 1889, in Scott, *Reports to the Hague Conferences*, p. 4.

⁵⁷ Preamble to the Hague Convention II, Convention with Respect to the Laws and Customs of War on Land, July 29, 1899, <<http://www.lib.byu.edu/~rdh/wwi/hague/hague2.html>>.

⁵⁸ Best, *War & Law Since 1945*, pp. 182-184.

⁵⁹ Preamble to the Ottawa Convention, Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction, September 18, 1997, <http://www.vvaf.org/landmine/us/updates/events97/treaty9_29html>.

⁶⁰ *Ibid.*

⁶¹ Ekos Research Associates, Inc., *A Global Ban on Landmines: Survey of Participants: Technical Report*, submitted to Bob Lawson, Canadian Department of Foreign Affairs and International Trade, December 19, 1997, p. 10. The survey was conducted from a total of 201 completed responses derived from representatives from governments (45%), NGOs (41%), and international

organizations (9%).

⁶² Ekos Research Associates, Inc., "Interactive Survey Group Highlights and Results," in *A Global Ban on Landmines*, p. 5.

⁶³ Jones, *Code of Peace*, p. 157.

⁶⁴ Brian W. Tomlin, "On A Fast Track To A Ban: The Canadian Policy Process," in Cameron et al., *To Walk Without Fear*, p. 206.

⁶⁵ White House, Press Release, September 26, 1994, "Fact Sheet: U.S. Policy on a Landmine Control Regime."

⁶⁶ Statement by Nicolleta Denticca, Chairwoman, Italian Campaign to Ban Landmines, at the Ottawa Process Forum, Ottawa, Canada, December 5, 1997.

⁶⁷ In 1962, the Eighteen-Nation Disarmament Committee (ENDC) presented a biological and chemical weapons prohibition plan. It was not until the British drafted a convention to the ENDC in July 1969 that biological weapons were separated from chemical weapon prohibition discussions. Chemical weapon discussions were initiated five months later. United States Arms Control and Disarmament Agency, "Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction," <<http://www.acda.gov/treaty/bwc1.htm>>.

⁶⁸ United States Arms Control and Disarmament Agency, "Chemical Weapons Convention Signatories/Ratifiers," <<http://www.acda.gov/factsheet/wmd/cw/cwcsig.htm>>.

⁶⁹ Date of the creation of the International Atomic Agency Authority (IAEA) for peaceful use of atomic energy. Croft, *Strategies of Arms Control*, p. 53.

⁷⁰ Conference of Government Experts on the Use of Conventional Weapons, September 24 - October 18, 1974, Lucerne, Switzerland.

⁷¹ Philip C. Winslow, "Canada Leaves Clinton Behind in Effort to Ban Land Mines," *The Detroit News*, August 10, 1997, <<http://detnews.com:80/1997/nation/9708/10/08100069.htm>>.

⁷² Letter dated May 15, 1998, from Sandy Berger, National Security Advisor, to Senator Patrick Leahy.

⁷³ Robert Windrem, "Land mines come in a variety of shapes and sizes," NBC News, <<http://www.msnbc.com/news/110411.asp>>. Some "Chinese Officials have said that China has not exported any antipersonnel mines since 1995." International Campaign To Ban Landmines, *Landmine Monitor Report 1999: Toward a Mine Free World* (New York: Human Rights Watch, 1999), p. 459, note 27.

⁷⁴ "Russia says no to landmine treaty," BBC News, December 2, 1997, <http://news.bbc.co.uk/hi/english/world/newsid_36000/36210.stm>.

⁷⁵ Robert O. Keohane, *After Hegemony: Cooperation and Discord in the World Political Economy* (Princeton, NJ: Princeton University Press, 1984).

⁷⁶ Jones, *Code of Peace*, p. 56.

⁷⁷ Merle Curti, *Peace or War: The American*

Struggle, 1636-1936 (New York: W.W. Norton and Company, 1961), p. 187.

⁷⁸ James Brown Scott, in the introduction to *The Proceedings of the Hague Peace Conferences: Translation of the Official Texts: The Conferences of 1899 and 1907: Index Volume*, prepared by the Division of International Law of the Carnegie Endowment for International Peace, under the supervision of James Brown Scott (New York: Oxford University Press), p. xviii.

⁷⁹ Mr. Staal, President of the Plenary Conference, Address of the President, Second Meeting Notes, May 20, 1899, in Scott, *Reports to the Hague Conferences*, p. 17.

⁸⁰ International Peace Bureau history, <<http://www.ipb.org/history/history.html>>.

⁸¹ Ibid.

⁸² Statement by the Honorable Lloyd Axworthy, Minister of Foreign Affairs, at the closing session of the International Strategy Conference, "Towards a Global Ban on Anti-Personnel Mines," Ottawa, Canada, October 5, 1996.

⁸³ Statement by Steffen Kongstad, Minister Counsellor, Permanent Mission of Norway to the United Nations at Geneva, at the Ottawa Process Forum, Ottawa, Canada, December 5, 1997.

⁸⁴ Ekos Research Associates, Inc., "Ban Convention on Anti-Personnel Mines: Government Representative Focus Group," in *A Global Ban on Landmines*, p. 1.

⁸⁵ Mr. Staal, President of the Plenary Conference, Address of the President, in Scott, *Reports to the Hague Conferences*, p. 17.

⁸⁶ Mr. Raffalovich, First Commission, Third Meeting Notes, May 31, 1899, in Scott, *Reports to the Hague Conferences*, pp. 343-344.

⁸⁷ Janne E. Nolan, "Land Mines: The Arms Control Dimension," in Kevin Cahill, ed., *Clearing the Fields: Solutions to the Global Land Mines Crisis* (New York: BasicBooks and the Council of Foreign Relations, 1995), p. 87.

⁸⁸ Richard Falk, "Walking the Tightrope of International Humanitarian Law: Meeting the Challenge of Land Mines," in Cahill, *Clearing the Fields*, p. 78.

⁸⁹ Christopher Joyner and John C. Dettling, "Bridging the Cultural Chasm: Cultural Relativism and the Future of International Law," *California Western International Law Journal* 20 (1989-1990), p. 284.

⁹⁰ Coalition to Stop the Use of Child Soldiers, <<http://www.child-soldiers.org>>.

⁹¹ Preparatory Committee for a Global Campaign on Small Arms and Light Weapons, <<http://www.prepcom.org>>.

⁹² Liz Clegg, "NGOs Take Aim," *The Bulletin of the Atomic Scientists* 55 (January/February 1999), p. 49.

⁹³ Ekos Research and Associates Report, "Interactive Survey Group Highlights," p. 5.

⁹⁴ Ibid., p. 7.

⁹⁵ Clegg, "NGOs Take Aim," p. 50.

⁹⁶ Bradley Graham, "Army Laser Weapon Becomes First Casualty of New Policy," *Washington Post*, October 13, 1995, p. A4.

⁹⁷ Ibid., p. A4.

⁹⁸ Statement by Ambassador Johan Molander,

President of the CCW Review Conference, Vienna, Austria, at the opening meeting of the First CCW Review Conference, September 26, 1995.

⁹⁹ The governments of Angola, Guinea-Bissau, and Senegal continue to use landmines even though they are signatories to the Ottawa Treaty.

¹⁰⁰ These patterns seem to give evidence for Ethan Nadelmann's outline of a common evolutionary pattern among global prohibition regimes. See Nadelmann, "Global Prohibition Regimes."

¹⁰¹ Krasner, "Structural Causes and Regime Consequences," p. 99.