

BOOK REVIEW

Humanitarian Disarmament: An Historical Enquiry

Tresa Dunworth

MAX ASHMORE*

I INTRODUCTION

The thought of the importance of one human life that one might be able to save ... gives a supreme energy, a thirst to carry help to the greatest number possible.¹

— Henri Dunant, the founder of the Red Cross

The Anti-Personnel Land Mine Ban Convention² is generally agreed to be an extremely successful disarmament convention, and indeed arguably the most successful international agreement to that end.³ The Convention was not just a success in terms of scope and uptake, but also — unlike the disarmament initiatives of the Cold War era — put disarmament in an explicitly humanitarian context. In *Humanitarian Disarmament: An Historical Enquiry*, Associate Professor Tresa Dunworth tries to put that Convention and others in historical context, and traces the role of humanitarian discourse in disarmament work over the past 160 years.⁴ Professor Dunworth suggests that the humanitarian sensibility has been present since the beginning of disarmament as a political project, waning for a time in the period immediately surrounding the Second World War, and recently waxing again to become the dominant discourse. She writes in opposition to the idea that the humanitarian sensibility was an invention of the Anti-Personnel Land Mine Ban Convention, and rather attempts to situate that treaty within a longer history of humanitarian discourse in the disarmament space. She

* BA/BSc/LLB(Hons), University of Auckland.

1 Henri Dunant *The Origin of the Red Cross* “*Un souvenir de Solferino*” (eBook ed, The Project Gutenberg, 2016) at [44]–[45].

2 Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction 2056 UNTS 211 (opened for signature 3 December 1997, entered into force 1 March 1999).

3 See Bonnie Docherty “Ending Civilian Suffering: The Purpose, Provisions, and Promise of Humanitarian Disarmament Law” (2010) 15 ARIEL 7; Jody Williams and Stephen Goose “The International Campaign to Ban Landmines” in Maxwell A Cameron, Robert J Lawson and Brian W Tomlin (eds) *To Walk Without Fear: The Global Movement to Ban Landmines* (Oxford University Press, Don Mills (Ontario), 1998).

4 Tresa Dunworth *Humanitarian Disarmament: An Historical Enquiry* (Cambridge University Press, Cambridge, 2020).

suggests this is necessary to demonstrate the flaws of the humanitarian approach to disarmament, and show how it comes with necessary and unavoidable political baggage.

Professor Dunworth's book will be of assistance to anyone with an interest in the history of the disarmament movement. She covers the major disarmament conventions in detail, telling a powerful narrative history. *Humanitarian Disarmament* illuminates both the persistent importance of the discourse of humanitarianism and the role of other discourses in the achievements of disarmament.

II CHAPTER SUMMARY

Humanitarian Disarmament is essentially a narrative political history. Professor Dunworth goes chronologically through the major movements in the history of disarmament treaties and conventions. This is, I think, the strongest part of her book, and the aspect that will be most useful to students and scholars. Readers looking for an overview of the major events in this area will not be disappointed, and *Humanitarian Disarmament's* historical survey is written accessibly and without assuming a great deal of contextual knowledge. The reader is handheld through the history of disarmament treaties and conventions from the nineteenth century onwards. With some well-telegraphed exceptions, the survey is comprehensive and detailed.

As would be expected from a history of conventions and treaties, the book is entirely top down. Readers expecting a social history will be disappointed. The book is very much a lawyer's history, focusing on the texts that were argued about and ultimately implemented, and the motivations and arguments of the powerful individuals largely engaged in the framing of the text. There is some discussion of civil society groups, but the analysis remains top down: the relevant groups are those represented at the top-level negotiations on the text of the treaties. This is not a criticism. Those groups are understandably the ones who are most relevant from a legal perspective. Professor Dunworth, quite reasonably, does not attempt to convey a broader historiography than that.

Chapter 1 lays the groundwork. Professor Dunworth sets out her argument and defines the terms "disarmament" and "humanitarian". She takes a broad definition of the former, including the limitation or reduction of the use of various categories of weapons. She observes that she does not directly address international humanitarian law except for in the context of treaties and conventions. She also excludes the Treaty on the Non-

Proliferation of Nuclear Weapons from her analysis.⁵ “Humanitarian” is broadly defined as a lens that focuses on human suffering and the need to alleviate that suffering. “Humanitarian disarmament” is therefore defined as disarmament advocated for on humanitarian grounds, instead of on a pure state security logic.

Chapter 2 is a survey of the disarmament efforts from the 1868 St Petersburg Declaration through to the failure of the World Disarmament Conference in 1933. Professor Dunworth suggests the modern understanding of humanitarianism, a concern for the suffering of “strangers in distant lands”,⁶ emerged in the context of the European Enlightenment. She argues that this brand of humanitarianism was fundamentally centred on civil society instead of individual action, and had an unavoidably transnational character. She notes that the early flowerings of humanitarian action, in the abolitionist movement and the founding of the Red Cross, were explicitly apolitical, purporting to aid all of humanity on a needs basis.

The first treaty prohibiting the use of a weapon was the Saint Petersburg Declaration of 1868, which prohibiting the use of exploding bullets.⁷ Professor Dunworth observes that while there were specific political motivations driving the Declaration, namely the desire of the parties to keep down the cost of weapons by mutual agreement, the explicit text of the Declaration takes a humanitarian approach.⁸ She suggests that this means that a humanitarian sensibility was a key factor in the Declaration. The same dynamic was present in the two Hague Peace Conferences of 1899 and 1907. Professor Dunworth observes the mixed motives for attending evident from the historical record and the explicitly humanitarian text of the final resolution, concluding they were motivated by a blend of pragmatism and idealism. She notes that agreement was reached on three categories of weapons (weapons dropped by balloons, asphyxiating or poisonous gases, and expanding bullets) but not on the general issue of peace. She concludes that by prohibiting some forms of weapons, the Conferences implicitly accepted the remainder. She also looks in more detail at the specific prohibitions, and notes that the Declarations contained reciprocity clauses. They were binding only in wars exclusively between contracting powers. That said, powers like Britain refused to ratify the Declarations in 1899, but acceded in 1907 and 1909. Professor Dunworth suggests this implies some role for public opinion in forcing the hands of politicians. She again considers that the correct reading of the Conference suggests mixed motives

5 Treaty on the Non-Proliferation of Nuclear Weapons 729 UNTS 161 (opened for signature 1 July 1968, entered into force 5 March 1970).

6 Michael Barnett *Empire of Humanity: A History of Humanitarianism* (Cornell University Press, Ithaca, 2013) at 20.

7 Declaration Renouncing the Use, in Time of War, of Explosive Projectiles Under 400 Grammes Weight (entered into force 11 December 1868).

8 Scott Keefer “‘Explosive Missals’: International Law, Technology, and Security in Nineteenth-Century Disarmament Conferences” (2014) 21 *War in History* 445 at 450.

— not entirely pragmatic, but not entirely humanitarian either. She also briefly discusses the famous Martens Clause, which will be very much appreciated by students looking for a one-stop shop on the Hague Conferences!⁹

By 1907, however, enthusiasm for disarmament was waning. The major powers had increased military expenditure dramatically. The Kaiser threatened to have his delegates leave the conference entirely if the issue was raised.¹⁰ The 1907 Conference was a failure, and another conference was to be called in 1915. For obvious reasons, this did not occur.

Professor Dunworth then surveys the interwar period. She observes the strong humanitarian impulse and general fear of armaments that the First World War had engendered. She, however, notes that at the state level politicians remained convinced that maintaining a domestic stockpile of armaments was a necessary security for the state.¹¹ Nonetheless, the League of Nations had some successes, most notably in the agreement of the Geneva Protocol banning chemical and biological weapons. *Humanitarian Disarmament* is at its best when canvassing the negotiations of these protocols, and in illuminating the subtle conceptual shifts in the language of the prohibitions.

Chapter 3 shifts forward to after the Second World War. *Humanitarian Disarmament* argues that the humanitarian discourse in disarmament was sidelined for the period spanning roughly 1945–1965. Professor Dunworth suggests that the horrors of the war, and the sense that victory was a moral imperative that superseded other considerations, caused a shift in the public morality towards accepting severe human costs in the deployment of weapons. She observes that a poll after the bombing of Hiroshima found that 85 per cent of respondents approved of the attack.¹² In the post-war environment it was considered that collective security was found in strength, not in transnational disarmament efforts. To the extent there were institutional efforts at disarmament, they were largely unsuccessful, deadlocked by the superpower conflict. However, Professor Dunworth looks to the advent of the Non-Aligned Movement¹³ towards the end of this period as a “growing light”¹⁴ of the humanitarian sensibility in

9 Antonio Cassese “The Martens Clause: Half a Loaf or Simply Pie in the Sky?” (2000) 11 EJIL 187 at 188. The Martens Clause, which asserts that the existing international customs and rules of war continue to bind nations, is arguably the most significant clause in international law. However, many other commentators consider it effectively meaningless. It is not directly relevant to Professor Dunworth’s narrative, hence she does not spend much time on it.

10 Barbara W Tuchman *The Proud Tower: A Portrait of the World before the War 1890–1914* (Macmillan, New York, 1966) at 277.

11 Dunworth, above n 4, at 41.

12 Lawrence S Wittner *One World or None: A History of the World Nuclear Disarmament Movement Through 1953* (Stanford University Press, Stanford, 1993) at 55–56.

13 An association of largely Asian and African countries aiming to act independently of the superpowers.

14 Dunworth, above n 4, at 79.

disarmament. She suggests that while the humanitarian approach was marginalised, it was not wholly quashed.

Chapter 4 covers the efforts by various groups, especially the Non-Aligned Movement, to prohibit indiscriminate weapons, especially in the wake of the Vietnam War. *Humanitarian Disarmament* covers three major efforts: the effort in general to include discussion of weapons in the developing law of armed conflict, the 1968 Tehran Conference, and the Convention on Conventional Weapons in 1980. The first two came to nothing, but Professor Dunworth suggests they both reflected the increasing public concern about the humanitarian effects of weapons like napalm and represented a renewal of the humanitarian sensibility. The third effort resulted in a convention. Professor Dunworth suggests that this convention was significant in large part because it represented weapons being prohibited because of their humanitarian impact.

Chapter 5 takes us out of the Cold War. It primarily focuses on the Anti-Personnel Land Mine Convention of 1997. Professor Dunworth surveys the context of the Convention. She suggests, with a close analysis of the context of the Convention, that it represented a serious shift away from the existing disarmament architecture by stepping away from the United Nations. She further suggests that civil society had a great deal more access and engagement in the enforcement of the treaty than usual, and finally observes that the provisions regarding victim assistance were an important development.

Unlike the previous conventions, the Anti-Personnel Land Mine Convention came amid a background of increasing support and independent national activity to phase out land mines. Canada unilaterally convened the Ottawa Process to attempt to convert the momentum into a convention. The treaty opened for signature quickly and was signed by 121 states immediately. It was comprehensive and binary: land mines were banned and parties were required to destroy their stockpiles and clear mined areas. States were required to criminalise the use of land mines. *Humanitarian Disarmament* discusses the dramatic effect of the Convention, but also places it in the context of the enduring importance of humanitarianism to disarmament conventions in the past. Professor Dunworth also observes that the Convention has limitations, especially regarding the verification and victim assistance provisions. Implementation has not been perfect. Professor Dunworth nonetheless considers it an overwhelming success. She omits to mention that the Convention has not been signed by the United States, China, India, Pakistan, and Russia, among others. Professor Dunworth does not take the opportunity to debate whether the humanitarian credentials limited the Convention's appeal to more militaristic states.

Despite the success of the Anti-Personnel Land Mine Convention, it did not address a major category of mine-like weapons: cluster munitions. These devices are therefore instead subject to the Convention on Cluster

Munitions, which opened for signature in 2008.¹⁵ In Chapter 6, Professor Dunworth suggests that the Convention on Cluster Munitions is a maturation of the discourse on humanitarian disarmament, and hence represents both an advance and a realisation of the inherent difficulties with that discourse. She first notes that the Convention on Cluster Munitions, unlike previous treaties, starts with a prohibition on cluster munitions and then permits certain categories to be ruled back in if they meet certain criteria. This shifts the burden of arguing that a weapon ought to be permitted onto the militarily powerful states. In many ways the Convention on Cluster Munitions was a rearticulation and strengthening of the principles in the Anti-Personnel Land Mine Convention; the victim support provisions, for example, go a great deal further. However, Professor Dunworth observes that the Convention on Cluster Munitions places the responsibility to deal with unexploded ordnance primarily on the territorial state, which can be problematic.

Nuclear disarmament is, in a sense, the “holy grail” of disarmament. Chapter 7 therefore addresses the history of nuclear disarmament efforts, culminating in the Treaty Prohibiting Nuclear Weapons in 2017.¹⁶ Professor Dunworth, in one of the strongest historiographical sections of the book, surveys the history of treaty-level transnational efforts to prohibit nuclear weapons. She rapidly moves through the big names in the area, from the Franck Committee¹⁷ (formed before the bombing of Hiroshima), to the Partial Test Ban Treaty of 1963,¹⁸ to the World Court Project in the 1970s¹⁹ and the Comprehensive Test Ban Treaty in 1996.²⁰ She demonstrates the persistent significance of humanitarian arguments in the public discussion of nuclear disarmament.²¹ She suggests that in the early 2010s humanitarian disarmament became a predominant justification for moves to a total abolition of nuclear weapons.²² A United Nations conference was convened in 2017 and adopted the Treaty Prohibiting Nuclear Weapons. Professor

15 Convention on Cluster Munitions 2688 UNTS 39 (opened for signature 3 December 2008, entered into force 1 August 2010).

16 Treaty on the Prohibition of Nuclear Weapons (opened for signature 20 September 2017, not yet in force).

17 Joseph Rotblat “Movements of scientists against the arms race” in Joseph Rotblat (ed) *Scientists, the Arms Race and Disarmament* (Taylor and Francis/UNESCO, London/Paris, 1982) 115 at 116.

18 Treaty Banning Nuclear Weapon Tests in the Atmosphere, in Outer Space and Under Water 480 UNTS 43 (opened for signature 5 August 1963, entered into force 10 October 1963).

19 Among others *Nuclear Tests (New Zealand v France)* [1974] ICJ Rep 457; *Nuclear Tests (Australia v France)* [1974] ICJ Rep 253.

20 Comprehensive Nuclear-Test-Ban Treaty (opened for signature 24 September 1996, not yet in force).

21 As, for example, in Rebecca Johnson *Unfinished Business: The Negotiation of the CTBT and the End of Nuclear Testing* (United Nations, New York, 2009) at 11. Professor Dunworth does observe that the public mood in the United States was not unsupportive of the nuclear attacks in the Second World War but rapidly and globally became concerned at the prospect of this new weapon.

22 Such as statements by Switzerland, Liechtenstein, Norway and the Holy See. See the “NPT News in Review”, published throughout the Review Conference by Reaching Critical Will, available at <www.reachingcriticalwill.org>.

Dunworth observes that it has not been met with universal support,²³ but considers that it remains an important milestone in that it had somewhat stronger user-state victim assistance provisions.

The eighth and final chapter addresses the broader issues with the concept of humanitarian disarmament. Professor Dunworth makes four critiques of humanitarianism as a discourse in the context of disarmament. First, she suggests that humanitarianism as a framework claims to be apolitical, but in practice functions to render structural injustice invisible. By prohibiting individual categories of weapons, Professor Dunworth suggests that humanitarianism as a framework implicitly legitimises the larger use of force. Secondly, she suggests that humanitarianism can be complicit with militarism. She takes the invasion of Iraq as a case in point, where humanitarian outrage was used to justify the invasion. Thirdly, Professor Dunworth makes the case that humanitarian outrages cause momentum to build towards military action. Finally, she suggests that humanitarianism unavoidably creates a “hierarchy of humanity”, whereby photogenic or appealing victims garner a greater empathetic response than non-photogenic victims.²⁴

III CONCLUSION

This work is a valuable contribution to the historiography of disarmament. Professor Dunworth comprehensively surveys the last 160 years of disarmament efforts at the treaty level. The historical analysis, especially with regard to the Anti-Personnel Land Mine Convention and the Convention on Cluster Munitions is very strong and will be appreciated by many a hurried student hoping for a summary before an imminent essay. It is presented in an easily comprehensible and thankfully from-the-ground-up style. The work should be accessible to both naïve and expert readers.

Humanitarian Disarmament does, however, have some weaknesses. It is ultimately a highly textualist work, and at times has an air of unreality. For example, every nuclear power absented itself from the negotiations leading to the Treaty Prohibiting Nuclear Weapons. In Europe, that treaty has been signed only by Austria, Ireland, Liechtenstein, San Marino and the Vatican City. Treating such a treaty as a success seems to be somewhat illusory — of course the parties could agree on a treaty that imposed very stringent restrictions on weapons they did not possess, as none of them had an incentive to push back. The signatories of the Treaty Prohibiting Nuclear Weapons have neither power nor leverage to enforce what they decide. This

23 In fact, not a single state that possesses nuclear weapons has signed the treaty.

24 Dunworth, above n 4, at 216 and 237.

somewhat undermines the idea of humanitarian discourse advancing — comparing earlier treaties that did get major military powers on board to later treaties that did not is comparing apples to oranges. Of course the later treaties, shorn of any party who might lose out under stronger restrictions, went further. This is not particularly meaningful.

That is not to say that the treaties in the latter sections of the book are wholly meaningless. Treaties signed between minor powers may nonetheless influence civil society and public opinion, and make it difficult for non-signatory states to contradict international consensus. However, Professor Dunworth's book is very clearly aimed at people already convinced of the power and importance of international law.

The same problem appears in Chapter 8, in Professor Dunworth's critiques of humanitarian disarmament as a concept. I do not find the critiques very compelling. Her first critique, that by targeting certain weapons for elimination humanitarianism implicitly legitimises the remainder, seems to be missing a logical step. Professor Dunworth never explains precisely why this is the case, and this argument appears to be a fully general argument against compromise. If targeting one part of a problem endorses the rest of the problem, then no compromise is ever morally legitimate.

The first three critiques, which, in addition to the above, include the suggestion that humanitarianism can be complicit in militarism by legitimising the use of force to stop humanitarian outrage, and more generally that humanitarianism creates an imperative of action that can create movement to a military solution, rely on a fully committed pacifism. Most people, I suggest, consider that in some circumstances humanitarian outrage *does* legitimately justify use of force. With that conceded, the remaining disagreement is only about the facts on the ground — whether this particular humanitarian outrage is, pragmatically, sufficiently bad to outweigh the harms likely to result from the use of force. This is not a critique of humanitarian disarmament as a concept: the only way Professor Dunworth's case holds together is if the use of force is ipso facto illegitimate, and hence anything that can be used to persuade people to use force is tainted. The fourth critique, meanwhile, appears to be a problem with humans in general rather than humanitarianism as such.

Humanitarian Disarmament is a very strong survey of the history of disarmament at the treaty level. It will be invaluable for students aiming to get a basic understanding of the territory and for experts looking for a concise and readable summary of an area that can be extremely opaque.