Adding to Traditional Arms Control Treaties: Identifying Substantive & Procedural Hurdles & Opportunities

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Presentation outline

- The ‘Harvard Sussex Draft Convention’
- Efforts to promote HSDC
- Lessons learned
  - Substantive
  - Procedural
- Conclusions
**HSDC - background**

- Initial thinking in 1996 by Profs Matthew Meselson (Harvard) & Julian Perry Robinson (Sussex)
- Insert into the existing international anti-CBW regime sanctions that would descend upon violators of the underpinning norm
- Thinking about inserting individual accountability into the international regime led to the notion of crime
- During the Cold War, the concept of 'international crime' was a tool of inter-bloc politics, but after 1989/90 it took on a new life
- Brings in new categories of actor & moves policy debates beyond the confines of arms control & national-security doctrine
- Connection to IHL & possibility of linkage to 'human security' ideas
HSDC – *key provisions*

- Makes it a crime under *intl* law for any person to engage in prohibited activities.
- Establishes universal jurisdiction modelled on other international crimes (i.e. piracy, torture, hostage-taking etc).
- Creates individual responsibility thus filling loopholes in existing *intl* treaties – *hostes humani generis*.
- Obligates states parties to investigate allegations & to extradite or adjudicate.
- Contains provisions on extradition, legal assistance, protection of the accused etc.
HSDC – phases of development

- 1996-98: basic research
- 1998-2002: exploratory development
- 2002-08: preparing for implementation
- 2008-10: campaigning for international acceptance
HSDC – current status

- Support expressed by Netherlands, Swiss & UK governments & considered by EU working group on public int'l law (COJUR)
- Support from legal community
- Continued funding from Carnegie Corp.
- Legal commentary ready for publication
- Russian translation complete, French & Spanish underway
- Series of policy papers in preparation
- Planning underway for high-level conference
Efforts to promote the HSDC

- Technical workshops
- Meetings with diplomats
- Conference presentations
- Publications (academic & policy)
- Finding a ‘champion’
- Identifying ‘key states’ as supporters
Lessons learned - substantive

- Scope – intellectual & geographical
- External events – positive & negative impacts
- Added value needs to be communicated clearly
- Need to avoid distracting from or undermining existing treaties
- Transition from academics to practitioners, design to advocacy
- Concern about over-burdening states
Lessons learned - procedural

- Need ability to relinquish ‘ownership’
- Need for wide support base (not just govts & lawyers, also civil society)
- Forum (UN, regional, Ottawa/Oslo etc)?
- Need for ongoing funding
- Supporting documentation (i.e. legal commentary etc)
- Translations (technical accuracy, all 6 UN languages?)
Conclusions

- It’s a long slog
- Impact of external events
- Need for clarity on purpose of treaty
- Transitions from academia to legal community to diplomacy
- Problem of ‘treaty fatigue’
Thank You

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