

The NPT and the Prohibition Treaty: Towards Convergence

Outreach themes for 2020

- The Nuclear Non-Proliferation Treaty (NPT) is the cornerstone of the global non-proliferation and disarmament regime. The Nuclear Weapon Prohibition Treaty (Prohibition Treaty) is an effort to implement Article VI of the NPT. Consequently there is no necessary conceptual gap between the NPT and the Prohibition Treaty on the need and requirement for the elimination of nuclear weapons. However the two treaties approach this objective differently. In particular the actions of the five nuclear-weapon states, in maintaining stockpiles of nuclear weapons and employing doctrines of deterrence premised on credible threat of use, are not proscribed by the NPT.
- The NPT in Article VI calls for negotiations leading to disarmament. The Prohibition Treaty, reflecting international frustration at the lack of progress in such negotiations, calls for the near-term prohibition of nuclear weapons. All the nuclear-armed states have rejected the Prohibition Treaty's approach in view of prevailing unresolved international security challenges. There is a need, therefore, to address how existential security concerns can be met: (a) in ways that reduce reliance on nuclear weapons; and (b) prospectively, in a world free of nuclear weapons.
- The Prohibition Treaty has been adopted and opened for signature and forms part of the international institutional reality alongside the NPT. It is imperative that the two treaties operate in a complementary way and non-proliferation and disarmament obligations are protected. The upsurge in geopolitical tensions makes it even more urgent to uphold all existing treaty obligations and build on these.
- Significant gaps exist between different groups of states, particularly:
 - Those arguing for the utility of deterrence and others who point to its inherent dangers and instability;
 - The absolute prohibitionists who demand abolition in the near term and the incrementalists who favour a step-by-step progressive approach.
- Current nuclear weapon "modernization" plans, and development of new nuclear weapons and use scenarios, are contrary to the obligation under the NPT to end the nuclear arms race and pursue nuclear disarmament. They also open up a divergence between where we are now, where we are heading towards, and where we want to go. Nuclear arms reductions have seemingly run their course, highlighting the need for new approaches.
- There are moral, legal and existential imperatives to reduce and eventually eliminate nuclear weapons, and the NPT obliges the Parties to do so. The International Court of Justice (ICJ), in its 1996 Advisory Opinion, was unable to find circumstances in which the use of nuclear weapons could be compatible with international humanitarian law, due to their indiscriminatory nature and destructive force, and the environmental consequences of their use. The ICJ also found that the obligation in the NPT to pursue

negotiations for ending the nuclear arms race and for nuclear disarmament is an obligation to bring these negotiations to a conclusion.

- The Prohibition Treaty builds on the ICJ's findings. Through this treaty almost two-thirds of the international community have declared that *any* use of nuclear weapons would be contrary to the rules of international humanitarian law, and also abhorrent to the principles of humanity and the dictates of public conscience.
- The Prohibition Treaty is an important step towards the establishment of an international norm against nuclear weapons, a norm that is the logical consequence of the NPT Article VI obligation to pursue disarmament. In doing so, however, the Prohibition Treaty goes well beyond the NPT to directly challenge nuclear deterrence by proscribing the possession, use and threat of use of nuclear weapons, under any circumstances. The nuclear-armed states and their allies insist that under current circumstances of an unfavourable international security environment, nuclear deterrence remains essential. If the two treaties are to co-exist, therefore, the deterrence-disarmament relationship needs to be explored and any tension between them has to be resolved.
- The two treaties can converge in a framework approach that pursues minimisation in the near term; reductions of numbers, roles and salience of nuclear weapons in the medium term; followed by complete, verifiable and irreversible elimination.
- Nuclear weapon states and their allies must heed the concerns of the majority of states. Constructive actions are needed to restart the agenda on nuclear weapon reductions and disarmament. The agenda needs to be reinvigorated and broadened from predominately bilateral actions by the United States and Russia to a multiparty process involving all the nuclear-armed states, including those outside the NPT.
- In addition to specific actions to reduce nuclear risks and establish confidence-building measures, all states that possess nuclear weapons must start acting consistently with the legal and moral imperative that these must never again be used. They must make every effort to prevent nuclear weapons use and promote deep reductions and the eventual elimination of all nuclear weapons. This requires a reduction of the role of nuclear weapons in security doctrines. A commitment by the nuclear-armed states to a policy of *no first use*, or sole purpose – that the sole purpose of nuclear weapons is to deter their use by others – would be a significant step.
- No First Use is already the policy position of China and India. A commitment to No First Use by the other nuclear-armed states would be a powerful statement that they respect the concerns of the international community, as expressed through the Prohibition Treaty. No First Use does not correspond to prohibition (as in the Prohibition Treaty). Nonetheless, it would change the dynamics of nuclear weapons policy, enhancing international confidence and providing an impetus towards elimination.
- NPT parties must ensure there is a continuing political recognition that the non-proliferation regime, which rests on the NPT and its IAEA safeguards system, is vital to

disarmament. Disarmament is unlikely to proceed without a high degree of confidence in the effectiveness of the eventual verification regime.

Action Items

All states

- All states are asked to recognize the seriousness with which the international community views growing global nuclear threats. All states should avoid destabilising policies and actions that could increase the risk of nuclear war or impede the objective of disarmament. States that are not prepared to join the Prohibition Treaty at this time are asked to take all the steps they can to help avoid the risk of nuclear war and to work towards the elimination of nuclear weapons.
- All states are asked to work to strengthen and increase the scope of nuclear weapon free zones.

All NPT parties must:

- Uphold the NPT as being necessary to global non-proliferation and disarmament efforts, including acknowledgement of the obligations all Parties have under all provisions of the NPT, including Article VI.
- Re-commit to the final documents of prior NPT Review Conferences.

All non-nuclear weapon states should:

- Continue to urge all nuclear armed states to demonstrate commitments to disarmament through practical measures to reduce their reliance on nuclear weapons – in doctrine and in tangible disarmament measures.
- Commit to adhere to all applicable best-practice non-proliferation standards including continuing to work for universal application of the most rigorous form of safeguards, as called for by successive NPT Review Conferences.

All nuclear weapon states are urged:

- To take urgent measures individually and collectively to reaffirm their commitment to Article VI of the NPT and to demonstrate this by tangible steps towards nuclear disarmament. In particular, they should take steps in:
 - doctrine, such as no first use/sole purpose commitments;
 - risk reductions, such as de-alerting;
 - deployment reductions;
 - dismantlement of weapons withdrawn from deployment.
- For the United States and Russia to commence serious negotiations to maintain the INF treaty and extend New START.

- To review individually and collectively, the **transparency** of their nuclear stocks and strategic policies.
- To move to strengthen **negative security assurance commitments** and to commit to No First Use.
- To accede to the Comprehensive Nuclear Test Ban Treaty; engage in fissile material cut-off negotiations; and ratify all relevant protocols to nuclear weapon free zones.
- To support international work designed to ensure that the technologies and procedures required to verify nuclear disarmament will be available when needed.

All parties to the Prohibition Treaty should:

- Ensure that there is no weakening of non-proliferation standards.
- Work for the success of the 2020 NPT Review Conference.
- Support tangible disarmament measures pending the complete elimination of nuclear weapons.

All non-NPT states must:

- Commit to support the NPT as a contribution to global security and, as applicable, to act as if they were parties to the NPT with regard to its disarmament, non-proliferation and peaceful uses commitments.