

# NUCLEAR WEAPONS - WHERE ARE WE NOW?

## A short history of nuclear non-proliferation and disarmament commitments

Since the beginning of the nuclear age, nuclear non-proliferation and disarmament have been officially recognized by all States as critical goals. The very first resolution adopted by the United Nations General Assembly, on 24 January 1946, established the goal of eliminating nuclear weapons and other weapons “adaptable to mass destruction”.<sup>8</sup>

Biological and chemical weapons, the two other categories generally considered to be weapons of mass destruction, have been prohibited under the 1972 Biological Weapons Convention and the 1993 Chemical Weapons Convention respectively. Other weapons causing indiscriminate harm, i.e. which cannot distinguish between legitimate military targets and civilians (who are protected in wartime), have also been prohibited by international treaties. These include the 1997 Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction (Mine Ban Treaty) and the 2008 Convention on Cluster Munitions. There are also agreements banning the use in wartime of weapons that cause unnecessary suffering to combatants, such as the 1899 Hague Declaration Concerning Expanding Bullets and 1995 Protocol IV to the Conventional Weapons Convention on Blinding Laser Weapons. There is also a global treaty prohibiting the military use of environmental modification (the 1977 ENMOD Convention).

However, nuclear weapons, which are arguably the most destructive of weapons of mass destruction and the most likely of all weapons to cause indiscriminate harm, long-term and unnecessary suffering to combatants and severe damage to the environment, are not yet subject to a similar global prohibition agreement.

Historically, nuclear weapons have been relegated to a separate category of weapons, one which some States claim it is legitimate for them to possess

for their national or collective security, but which it would be dangerous for other States to acquire. At the same time, it has been accepted, even by nuclear-weapon States that a nuclear-weapon-free world is a desirable goal, but one that is unrealistic until nuclear deterrence is replaced by a better security framework.

As such, the nuclear-weapon States have promoted a range of measures to prevent other States from acquiring nuclear weapons, and have agreed to minimal disarmament steps, such as a reduction in nuclear-weapon stockpiles, the removal of some categories of nuclear weapons from their arsenals, and not to threaten to use or use nuclear weapons against non-nuclear-weapon States except in certain conditions.

## Terminology

When referring to nations possessing nuclear weapons, this Handbook distinguishes between two categories of States: **nuclear-weapon States (NWS)**, which refers to the five States officially recognized by the NPT as possessing nuclear weapons (China, France, the Russian Federation, the United Kingdom and the United States), and **nuclear-weapon-possessing States (NWPS)**, which includes the nuclear-weapon States and non-NPT possessor States (the Democratic People's Republic of Korea, India, Israel and Pakistan). The Handbook also refers to two other categories of States: **allies of nuclear-weapon States** and **non-nuclear-weapon States**.

Although the majority of States have never embraced the nuclear deterrence security strategy, the fact that the nuclear-weapon States and their allies have continued to rely on nuclear deterrence and the nuclear-weapon States have continued to modernize their nuclear weapon systems and to maintain doctrines to use nuclear weapons in a wide range of circumstances has spurred others also to acquire nuclear weapons and adopt a nuclear deterrence doctrine in response. Efforts to prevent proliferation have thus been only partially successful. The number of nuclear-weapon-possessing States has gradually increased from two in the 1940s (the United States and the Soviet Union) to nine today (France, China, India, Israel, the Democratic People's Republic of Korea, Pakistan, the Russian Federation, the United Kingdom and the United States).

On the other hand, a number of States have given up their nuclear arsenals to become non-nuclear. They include Belarus, Kazakhstan and Ukraine (nuclear weapons acquired when the Soviet Union broke up), and South Africa. Other countries have rejected nuclear weapons deployed on their territories (Greece) or transiting through their waters (New Zealand).

## **Nuclear non-proliferation and disarmament agreements**

A significant number and range of nuclear non-proliferation and disarmament agreements have been concluded since the beginning of the nuclear age.

Key agreements on non-proliferation have included the:

- 1968 Treaty on the Non-Proliferation of Nuclear Weapons (NPT), under which non-nuclear-weapon States agree not to acquire nuclear weapons;
- International Atomic Energy Agency (IAEA) safeguards applied to the nuclear energy programmes of all non-nuclear-weapon States party to the NPT, to ensure that nuclear energy technology and materials are not used in a nuclear weapons programme;
- Comprehensive Nuclear-Test-Ban Treaty (CTBT) and the establishment of the Preparatory Commission for the Comprehensive Nuclear-Test-Ban Treaty Organization with the objective of promoting the universal adherence to and entry into force of the CTBT, as well as the building up of the verification regime;
- UN Security Council resolution 1540 requiring States to take additional national measures to prevent proliferation among non-State actors, through border controls, international cooperation in policing, and criminalization of proliferation activities;
- Convention on the Physical Protection of Nuclear Material and its 2005 amendment;
- 2005 Protocol to the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation (1988 SUA Convention);

- 2005 Protocol to the Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms located on the Continental Shelf (1988 Fixed Platforms Protocol);
- 2005 International Convention on the Suppression of Acts of Nuclear Terrorism, designed to criminalize acts of nuclear terrorism and to promote police and judicial cooperation to prevent, investigate and punish such acts;
- Security Council resolutions dealing with specific cases of proliferation or potential proliferation, including resolutions relating to Iraq's weapons of mass destruction, nuclear tests by the Democratic People's Republic of Korea, India and Pakistan, and the nuclear fuel cycle activities of the Islamic Republic of Iran;
- Guidelines developed by the Nuclear Suppliers Group on export of nuclear technology and materials to non-nuclear-weapon States in order to reduce proliferation risks from such transfers; and
- treaties to establish nuclear-weapon-free zones in Antarctica, Latin America and the Caribbean, the South Pacific, South-east Asia, Africa and Central Asia, as well as in outer space, on the sea-bed and on the Moon.

The set of non-proliferation agreements would provide a fairly comprehensive approach to preventing proliferation and to verification, if they were accepted and implemented by all States.

The history of nuclear disarmament, however, has been one primarily of grand aims but only small incremental steps. The United States and the Russian Federation have concluded a number of confidence-building arms control measures and arms limitation agreements, including the:

- 1971 Nuclear Accidents Agreement;
- 1972 Anti-Ballistic Missile (ABM) Treaty (the United States withdrew in 2002);
- 1972 Strategic Arms Limitation Treaty (SALT);
- 1987 Intermediate-Range Nuclear Forces (INF) Treaty;
- 1988 Missile Launch Notification Agreement;
- Strategic Arms Reduction Treaties, including START I of 1991 (expired in 2009) and START II of 1993 (never entered into force);

- 1992 De-MIRVing agreement;
- 2003 Strategic Offensive Reductions Treaty (SORT) (superseded by New START); and
- 2010 New START.

However, both countries continue to maintain approximately 19,000 nuclear weapons in their stockpiles, 2,000 of which are on high operational readiness to use under launch-on-warning policies, i.e. to launch a retaliatory strike on the warning of an incoming attack even before any nuclear weapon has hit. In addition, between 150 and 200 US tactical nuclear weapons remain deployed in several European non-nuclear-weapon States.

India and Pakistan have also agreed to confidence-building measures, including the:

- 1998 Prohibition of attacks against nuclear facilities agreement; and
- 2007 Agreement on Reducing the Risk from Accidents Relating to Nuclear Weapons (extended in 2012).

Yet, there have been no negotiations, let alone agreements, among the nuclear-weapon-possessing States on plans for multilateral nuclear disarmament. Meanwhile, all countries possessing nuclear weapons have made long-term plans to modernize or improve nuclear warheads or their delivery systems.

Progress on nuclear disarmament is instrumental in preventing proliferation. The ongoing policies of nuclear possession and the threat of use of nuclear weapons provide a rationale for other States to acquire nuclear weapons in their defence, and a justification to refuse comprehensive safeguards on their nuclear energy programmes. In addition, the continuing existence of nuclear-weapon technology and fissile materials gives other States the technical capacity to acquire such technology and materials, including on the black market. In contrast, the development of comprehensive legal, technical, institutional and political mechanisms to abolish and eliminate nuclear weapons would make it much more difficult, if not impossible, for non-nuclear-weapon States to develop or acquire such weapons.

As such, Article VI of the NPT affirms that all States Parties should “pursue negotiations in good faith on effective measures relating

to cessation of the nuclear arms race at an early date and to nuclear disarmament”.<sup>9</sup>

Efforts to establish a legal obligation to abolish nuclear weapons were advanced considerably in 1996 by the International Court of Justice, the highest judicial authority in the UN system. In its landmark *Advisory Opinion on the Legality of the Threat or Use of Nuclear Weapons*, the Court affirmed that “the threat or use of nuclear weapons would generally be contrary to the rules of international law applicable in armed conflict, and in particular the principles and rules of humanitarian law”. It unanimously concluded that there is “an obligation to pursue in good faith and bring to a conclusion negotiations leading to nuclear disarmament in all its aspects under strict and effective international control”.<sup>10</sup>

Following up on the Advisory Opinion, the UN General Assembly has adopted, every year beginning in 1996, a resolution calling upon all States immediately to fulfil that disarmament obligation by commencing multilateral negotiations “leading to an early conclusion of a nuclear weapons convention prohibiting the development, production, testing, deployment, stockpiling, transfer, threat or use of nuclear weapons and providing for their elimination”.<sup>11</sup>

In 1998, a group of like-minded States called the New Agenda Coalition (NAC) was established to prompt nuclear-weapon States to agree to an action agenda for implementing their nuclear disarmament obligation. In 2000, the NAC succeeded in moving those States to agree to “an unequivocal undertaking (...) to accomplish the total elimination of their nuclear arsenals leading to nuclear disarmament to which all NPT States Parties are committed under Article VI”.<sup>12</sup>

However, very little was done by the nuclear-weapon States to implement this undertaking until the 2010 NPT Review Conference. At that time, the five nuclear-weapon States party to the NPT agreed to a number of disarmament steps, and to report back to the 2015 NPT Review Conference on progress made on such steps.

The States party to the NPT also agreed in 2010 that the process to achieve nuclear disarmament did not rely solely on actions by the nuclear-weapon States, but that “[a]ll States need to make special efforts to establish the necessary framework to achieve and maintain

a world without nuclear weapons”.<sup>13</sup> The Middle Powers Initiative – an organization which brings together representatives of middle-power governments to explore the elements necessary for achieving and maintaining a nuclear-weapon-free world - considers that this agreement now gives non-nuclear-weapon States the green light to commence preparatory work on a global agreement to ban nuclear weapons, engaging with the nuclear-weapon States but not waiting for their consent.<sup>14</sup> This process would be similar to the Ottawa and Oslo processes, whereby like-minded countries negotiated global treaties banning anti-personnel landmines and cluster munitions without waiting for the agreement of all the countries possessing these weapons. In fact, there have been calls for an “Ottawa process for nukes”.<sup>15</sup>

## Role of the UN Security Council

At its first summit meeting, on 31 January 1992, the UN Security Council issued a Presidential Statement reaffirming “the need of all Member States to fulfil their obligations in relation to arms control and disarmament” and declaring the proliferation of weapons of mass destruction to be a “threat to international peace and security”.<sup>16</sup> Yet, with respect to nuclear weapons, the UN Security Council has generally focused on non-proliferation rather than disarmament.

It has, for example, acted resolutely in response to specific proliferation situations or threats relating to Iraq’s weapons of mass destruction programmes, nuclear tests by India, Pakistan and the Democratic People’s Republic of Korea, and proliferation concerns arising from the Iranian nuclear fuel cycle activities. However, it has tended to be silent on threats stemming from the policies and practices of the primary nuclear-weapon States – China, France, the Russian Federation, the United Kingdom and the United States. This can be explained – but not justified – by the fact that each of these five States is a permanent member of the Security Council with the power to veto any proposed Security Council action. The Security Council has also been rather quiet on Israel’s nuclear weapons programme, other than to call for a Middle East zone free from nuclear weapons and other weapons of mass destruction.

The Security Council appears to have a responsibility to act on nuclear disarmament arising from its mandate to act on threats to international

peace and security, and more directly from its obligation under Article 26 of the UN Charter to prepare plans for a system of regulation of armaments in order to minimize the diversion of human and economic resources to armaments.



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President Oscar Arias (Costa Rica) presiding over the UN Security Council Special Session in 2008.

The Security Council indicated that it might become more active in November 2008, when it held its first meeting on the implementation of Article 26 of the UN Charter, chaired by President Oscar Arias of Costa Rica,<sup>17</sup> and again in 2009, when it adopted a resolution, at a meeting chaired by US President Barack Obama, calling upon all States to undertake in good faith negotiations on nuclear disarmament and inviting non NPT-parties to “join in this endeavour”.<sup>18</sup>

In April 2012, the President of the Security Council reaffirmed the Council’s “support for the multilateral treaties whose aim is to eliminate or prevent the proliferation of nuclear, chemical or biological weapons and the importance for all States Parties to these treaties to implement them fully in order to promote international stability”.<sup>19</sup>

In summary, nuclear disarmament is – and has long been – recognized by the world community as an objective of the highest priority, and all States – not just the possessor States – have committed themselves



through the international legal framework to earnestly pursuing this goal. However, the nuclear-weapon States have been slow to take action to implement this obligation, and the non-nuclear-weapon States have largely been waiting for them to take such action.

*Parliamentarians have a role to play in prompting the nuclear-weapon States to act on their obligations, and also in encouraging non-nuclear-weapon States not to wait for the nuclear-weapon States to start themselves building the framework for a nuclear-weapon-free world. That framework should include comprehensive legal, technical, political and institutional mechanisms to ensure verified and enforced elimination of nuclear weapons and the prevention of any proliferation or re-armament.*

## Recent political momentum

The vision for a nuclear-weapon-free world has recently been advanced by leaders and high-level officials (current and former) of key States, including those possessing nuclear weapons or embracing nuclear deterrence doctrines. The goal has been supported by legislators, high-ranking military officials, academics, disarmament experts and other segments of civil society.

This recent flurry of support was sparked by a 2007 *Wall Street Journal* op-ed by former US high-level officials George Shultz, Henry Kissinger, William Perry and Sam Nunn.<sup>20</sup> In it, these eminent statesmen – who had done much to foster a nuclearized world – recognized the need to abandon nuclear weapons. They argued that, although nuclear weapons had a role to play in preventing a war between the two superpowers during the Cold War era, in the emerging multi-polar world of the 21<sup>st</sup> century nuclear weapons are not only increasingly irrelevant in providing security, their continued possession is likely to lead to proliferation and a heightened potential for nuclear catastrophe. They were joined by their counterparts from countries across the globe. In the process they have revitalized the drive to abolish nuclear weapons.<sup>21</sup>

The nuclear disarmament issue was then put squarely on the world community's agenda by UN Secretary-General Ban Ki-moon, who put forward the Five-Point Plan on Nuclear Disarmament in October 2008, proposing inter alia consideration of negotiations on a nuclear weapon

convention or a framework of separate mutually reinforcing instruments.<sup>22</sup> The Plan has earned support in forums of every kind and at every level, including in a resolution adopted by the IPU in 2009.<sup>23</sup> It was also referenced in the Final Document of the 2010 NPT Review Conference.<sup>24</sup>

A number of civil society efforts are contributing to the political momentum for a nuclear-weapon-free world. Over 5,000 cities have joined the Mayors for Peace campaign to achieve the abolition of nuclear weapons by 2020 under a nuclear weapons convention. Global Zero, a high-level group of 129 political, military, business, faith and civic leaders from around the world, has highlighted the financial burden of nuclear weapons and provided a roadmap for achieving a nuclear-weapon-free world. The International Campaign to Abolish Nuclear Weapons (ICAN), launched in 2007, is prominent in social media, with videos and individual action to advance a nuclear weapons convention. The Abolition 2000 Global Network for the Elimination of Nuclear Weapons, which was founded in 1995, has been endorsed by over 2,000 organizations and is building government support for a nuclear weapons convention, including through the relevant UN resolution and the UN Secretary-General's Five-Point Plan. Abolition 2000 member organizations spearheaded the drafting of the Model Nuclear Weapons Convention,<sup>25</sup> which has now been promoted by the UN Secretary-General as a starting point for negotiations on the convention. Public opinion polls commissioned by Abolition 2000 indicate overwhelming public support for a nuclear weapons convention, including in the nuclear-weapon-possessing States.

In addition, several eminent commissions, including the Weapons of Mass Destruction Commission (chaired by Hans Blix) and the International Commission on Nuclear Non-Proliferation and Disarmament (ICNND - chaired by Gareth Evans and Yoriko Kawaguchi), have proposed plans containing practical ideas to bring the Global Zero vision closer to reality. Although such proposals may offer different approaches to nuclear disarmament (comprehensive versus incremental, and everything in between), they generally agree that nuclear non-proliferation and disarmament – recognized as mutually reinforcing and inseparable objectives – can only be achieved as a result of a concerted effort.

These developments also set the stage for US President Barack Obama to put forward, in an April 2009 speech in Prague, the vision of a

nuclear-weapon-free world, which has since been supported by numerous other Heads of State. A year later, the United States and the Russian Federation signed New START, which requires both Washington and Moscow to reduce the number of deployed strategic nuclear warheads from about 2,200 to no more than 1,550 in seven years. New START was ratified by the parliaments of both countries in December 2010/January 2011 and entered into force in February 2011.

In 2010 the NTP States Parties further invigorated this newfound disarmament drive by including the following provision in the action plan on nuclear disarmament:

*“The Conference calls on all nuclear-weapon States to undertake concrete disarmament efforts and affirms that all States need to make special efforts to establish the necessary framework to achieve and maintain a world without nuclear weapons. The Conference notes the five-point proposal for nuclear disarmament of the Secretary-General of the United Nations, which proposes, inter alia, consideration of negotiations on a nuclear weapons convention or agreement on a framework of separate mutually reinforcing instruments, backed by a strong system of verification.”<sup>26</sup>*

This agreement has stimulated a number of high-level calls for States to commence negotiations on a nuclear weapons convention, or at least to commence a like-minded process to begin preparatory work on the elements of such a convention in order to encourage and assist negotiations. Such calls have come, for example, from the Inter-Action Council, a group of 20 former Heads of State (including from Australia, Canada, Germany, Jordan, Latvia, Mexico, Norway and the United States),<sup>27</sup> and from the 2011 Summit of Latin American and Caribbean States (CELAC).<sup>28</sup>

As such, the international community has recognized that it is now insufficient and even fruitless to focus solely on the next non-proliferation and disarmament steps. A comprehensive approach to nuclear disarmament must be developed alongside and as a complement to the step-by-step process.

Formidable obstacles nevertheless remain, as illustrated by the persistent deadlock in the Conference on Disarmament, the forum established to negotiate multilateral arms control and disarmament agreements. Since it completed the text of the CTBT in 1996, the Conference has been

paralysed by the consensus rule under which it operates. A discussion of the issues preventing it from breaking the long-standing impasse falls outside the scope of this Handbook. What can be noted, however, is that it is entirely unacceptable that on an issue as critical as disarmament – especially nuclear disarmament – one of the key institutions of the UN disarmament machinery has for over a decade and a half not even been able to adopt a work programme.<sup>29</sup> Determined efforts by the UN Secretary-General<sup>30</sup> and by Conference Member States have failed to break this deadlock. A number of States have therefore been advancing possible approaches to commence multilateral disarmament work outside the Conference, possibly by having the Conference work programme established by a majority vote in the UN General Assembly.<sup>31</sup> The programme would include multilateral action to negotiate a treaty on fissile materials, an agreement by the nuclear-weapon States not to threaten to use or use nuclear weapons against non-nuclear-weapon States, deliberations on prevention of an arms race in outer space, and deliberations leading to negotiations on comprehensive nuclear disarmament.

In short, notwithstanding high-level support for the goal of nuclear disarmament and agreements at the UN General Assembly and NPT Review Conferences, there is still no start to multilateral negotiations on nuclear disarmament, and only minimal progress has been made on nuclear-weapon reductions and nuclear non-proliferation steps. Many States seem to live by Mark Twain's quip, "Never put off until tomorrow what you can do the day after tomorrow." Wrongly so, as the risks arising from the increasingly dangerous nuclear status quo by no means justify such inactivity.

*Parliamentarians have a responsibility to ensure that governments stop making excuses for inaction, and focus political attention and diplomatic resources on achieving results.*

## Unacceptable risks

The global nuclear weapons complex entails a kaleidoscope of risks, not least owing to the maintenance of about 2,000 nuclear weapons on high-alert status. As Dr. Bruce Blair, Co-Founder of Global Zero and former Minuteman ballistic-missile launch-control officer, has noted:

*“While the common view was of weapons sitting around in stockpiles, the system is dynamic (...) it daily projects threat to any and all potential adversaries. And as a result of this readiness, and constant activity, there are numerous risks inherent in the nuclear weapons regime, including the risks of inadvertent launch, unauthorized launch, launch based on inaccurate information, and possible theft and acquisition by non-state actors.”<sup>32</sup>*

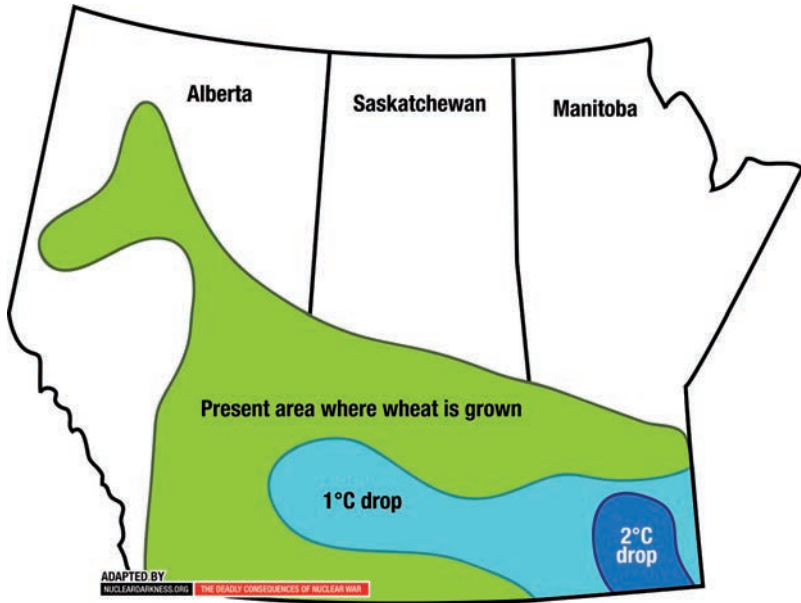
Former US Secretary of Defence William Perry has estimated the chance of a nuclear terrorist incident within the next decade at roughly 50 per cent.<sup>33</sup> US Senator Richard Lugar, in a survey of 85 national security experts, found that a median of 20 per cent agreed on the “probability of an attack involving a nuclear explosion occurring somewhere in the world in the next 10 years”.<sup>34</sup> Even if such predictions are thought to err on the side of optimism, risk analyses projecting extremely low probabilities should spur policymakers to action, given the devastating effects of an intentional or accidental nuclear explosion.

The probability of the combination of events leading to the Fukushima disaster occurring was considered so low as not to warrant attention and contingency planning – in hindsight much to our detriment. The probability of a nuclear weapons catastrophe occurring is not only higher than the Fukushima disaster, but its consequences would dwarf that event. We do not have the option of waiting until after a nuclear weapons catastrophe to learn from our mistakes and take action for future disasters. The risks are simply too great.

Growing understanding of the potential climatic effects – and humanitarian consequences – of a nuclear war has inspired some governments to take action. Recent research has revealed that even a limited regional nuclear exchange would eject so much debris into the atmosphere that it could cool down the planet to temperatures not felt since the ice ages (“nuclear winter”) and significantly disrupt the global climate for years to come. Huge fires caused by nuclear explosions, in particular from burning cities, would lift massive amounts of dark smoke and aerosol particles into the upper strata of the atmosphere, where the absorption of sunlight would further heat the smoke and lift it into the stratosphere. Here the smoke could persist for years and block much of the sun’s light from reaching the earth’s surface, causing surface temperatures to drop drastically. This would have disastrous implications for agriculture, and threaten the food supply for most of the planet. It has been

estimated that up to one billion people could die of starvation as a result.<sup>35</sup>

**Figure 1:** Projected Canadian wheat production loss after global drops in average surface temperature caused by nuclear weapons use.



Source: Nucleardarkness.org

*Given these recent studies and developments, parliamentarians can call on a wider range of constituencies to support their nuclear disarmament efforts, including the environmental and development communities.*

## **Nuclear disarmament as a humanitarian and legal imperative**

In addition to its recognition of the importance of pursuing a comprehensive approach to nuclear disarmament (through a nuclear weapons convention or framework of agreements), the 2010 NPT

Review Conference created an important opening for bringing the rule of law to disarmament. It expressed “its deep concern at the catastrophic humanitarian consequences of any use of nuclear weapons, and reaffirm[ed] the need for all States at all times to comply with applicable international law, including international humanitarian law”.<sup>36</sup>

In February 2011, a group of international law experts, convened by the Simons Foundation and the Lawyers’ Committee on Nuclear Policy, produced the Vancouver Declaration, “Law’s Imperative for the Urgent Achievement of a Nuclear-Weapon-Free World”, which underlines the incompatibility of nuclear weapons with elementary considerations of humanity.<sup>37</sup> The Declaration has received high-level endorsements from



Ed Ou/Reportage by Getty Images

Berik Syzdykov, 29, sings and plays the piano in an apartment in Semey, Kazakhstan (November 2008). Berik was born deformed and without eyes due to radiation exposure from nuclear testing during the Cold War.

former judges of the International Court of Justice, leading international law scholars, parliamentarians, and former diplomats and officials. More recently, the Council of Delegates of the International Red Cross and Red Crescent Movement adopted a resolution entitled: “Working towards the elimination of nuclear weapons”, which affirms the irreconcilability of nuclear weapons with international humanitarian law. It “emphasizes the incalculable human suffering that can be expected to result from any use of nuclear weapons [and] the lack of any adequate humanitarian response capacity”, and calls for States to undertake negotiations to prohibit and eliminate nuclear weapons through a legally binding international agreement.<sup>38</sup>

The increased attention to the application of international humanitarian law in the nuclear weapons debate is a welcome development, and has the potential to help break the impasse and open the way for genuine progress, just as it did in the case of anti-personnel landmines and cluster munitions. International humanitarian law, by focusing on the humanitarian effects of the weapons, provides an imperative for a ban, as compared to a more limited approach to control and gradually reduce the numbers of weapons, which is generally preferred by the weapon possessors. One advantage of this approach is that international humanitarian law is acknowledged as binding on all States at all times, as was affirmed at the 2010 NPT Review Conference. This means that security planners have to think beyond mere considerations of military necessity in order to plan their approaches to security. If the law renders the use of nuclear weapons illegal, which it appears to do in most – if not all – circumstances, then military planners have to develop other methods to replace their reliance on nuclear weapons - methods that are compatible with the law.

*Parliamentarians, as lawmakers and elected representatives, have a responsibility to ensure that governments adhere to legal requirements internationally as well as nationally. Just as parliamentarians responded to the humanitarian consequences of anti-personnel landmines and cluster munitions by impelling their governments to join the negotiations for the treaties prohibiting them, so, too, can they invoke international humanitarian law to press their governments to join negotiations to prohibit nuclear weapons globally.*



## From nuclear deterrence to non-nuclear security

The International Court of Justice, in considering the legality of the threat or use of nuclear weapons, affirmed that any threat or use would generally be inconsistent with the rules of law applicable in wartime, including international humanitarian law. However, the Court also noted the practice of nuclear deterrence, which is ascribed to by the nuclear-weapon States and their allies (under extended nuclear deterrence relationships). As this was a practice that had been part of the security doctrines of a significant number of States, the Court could not conclude definitively whether the threat or use of nuclear weapons would be lawful or unlawful in an extreme circumstance of self-defence in which the very survival of a State would be at stake.

The Court indicated that the key to this dilemma lay in the obligation to pursue in good faith, and bring to a conclusion, negotiations on nuclear disarmament in all its aspects under strict and effective international control. Such negotiations would need to include the development of security methods and mechanisms to replace nuclear deterrence.

Senior US statesmen George Shultz, William Perry, Henry Kissinger and Sam Nunn argue that while nuclear deterrence was vital to prevent world war and to ensure national security in the bipolar world that existed from 1945 until 1991, the doctrine “is becoming increasingly hazardous and decreasingly effective” in a world which has outgrown the security framework of the Cold War”.<sup>39</sup>

However, this perspective has not been embraced by the nuclear-weapon States and their allies, which continue to ascribe a key role to nuclear deterrence in providing security.

Some analysts claim that security through nuclear deterrence is illusory, and that the real reason States hold on to nuclear weapons does not have to do with security but rather power projection, domestic politics or the political influence of the weapons industry.

Others claim that nuclear deterrence is perhaps not required by countries with large and modern conventional forces or where there is little realistic risk of invasion that would threaten the existence of the State, but might perhaps be required by smaller countries in vulnerable positions that have been threatened with attack, such as Israel, the Islamic Republic of Iran or the Democratic People’s Republic of Korea.

Regardless of whether nuclear deterrence is illusory or provides a real security benefit, if it is perceived as necessary by a State (and the State's population) then it will not be possible to abandon the policy and achieve a nuclear-weapon-free world until there is a change in perception, or nuclear deterrence has been replaced by alternative security methods or mechanisms.

Those States that still ascribe to the nuclear deterrence doctrine must therefore identify the specific situations in which they believe nuclear deterrence plays, or could play, a security role, and examine alternative approaches to achieving security in those situations. Such exploratory work should take into consideration the 21<sup>st</sup> century security issues, environment and mechanisms, which are fundamentally different from those of the 20<sup>th</sup> century.

The 7<sup>th</sup> World Summit of Nobel Peace Laureates concluded that:

*“The failure to address the nuclear threat and to strengthen existing treaty obligations to work for nuclear weapons abolition shreds the fabric of cooperative security. A world with nuclear haves and have-nots is fragmented and unstable, a fact underscored by the current threats of proliferation. In such an environment cooperation fails. Thus, nations are unable to address effectively the real threats of poverty, environmental degradation and nuclear catastrophe.”<sup>40</sup>*

## Economic dimensions

In December 2010, Global Zero released an analysis indicating that approximately US\$ 100 billion per year was being spent globally on nuclear weapons, with almost 50 per cent of that being spent in the United States alone.<sup>41</sup> In comparison, the **biennial** United Nations budget for 2012/2013 is US\$ 5.1 billion, or 5 per cent of the **yearly** global nuclear weapons budget. The costs of meeting the Millennium Development Goals – of basic education, primary health care, minimum food, clean water, and environmental protection (including climate change prevention and alleviation) – are estimated at US\$ 120 billion per year, just slightly more than the nuclear weapons budget.

Allocating such massive budgets to weapons systems designed in the hope they will never be used not only steals economic resources from other vital programmes, it also drains the social capital required to stimulate

economies. Dollar for dollar, investing in nuclear weapons creates far fewer jobs than virtually any other industry; nuclear weapon systems are high-tech and have virtually no economic flow-on to other industries or other economic activities. In addition, the intellectual activity devoted to modernizing and developing nuclear weapon systems steals such intellect from areas of social and economic need. The nuclear-weapon corporations might get richer, but everyone else gets poorer.

Of course, such expenditure might be justified if economies were booming, basic human needs were being universally met, and nuclear weapons guaranteed the security of all, without the threat of disaster by miscalculation, accident or intent. In the emerging security environment of the 21<sup>st</sup> century, however, it is becoming increasingly difficult to claim that these conditions hold. Rather, there is a growing imperative to reduce nuclear budgets and invest instead in cooperative mechanisms that meet the range of human, national and global security needs.

UN Secretary-General Ban Ki-moon, in a letter addressed to all parliaments in February 2010, noted that:

*“At a time when the international community is facing unprecedented global challenges, parliamentarians can take on leading roles in ensuring sustainable global security, while reducing the diversion of precious resources from human needs. As parliaments set the fiscal priorities for their respective countries, they can determine how much to invest in the pursuit of peace and cooperative security.”<sup>42</sup>*

## **Nuclear disarmament, an obligation for all States and all constituents**

Although the nuclear-weapon States should continuously be reminded of their disarmament obligations, other States should not wait for them to initiate a process leading to the enactment of a universal, verifiable, irreversible and enforceable legal ban on nuclear weapons. The Final Document of the 2010 NPT Review Conference affirms that “all States need to make special efforts to establish the necessary framework to achieve and maintain a world without nuclear weapons”.<sup>43</sup> Similarly, the NPT places the disarmament obligation on “[e]ach of the Parties to the Treaty”.<sup>44</sup> Likewise, UN Security Council resolution 1887 (2009) *inter alia* calls on all States to undertake in good faith negotiations on

nuclear disarmament – not just the nuclear-weapon States or NPT States Parties.

Furthermore, in order to achieve the global prohibition and elimination of nuclear weapons, different stakeholders and constituencies will need to be mobilized. Undeniably, parliaments and parliamentarians have a key role to play in this process.

In the chapters that follow, this Handbook seeks to identify good policies and practices aimed at advancing nuclear non-proliferation and disarmament goals, formulating a series of recommendations for further parliamentary action and thus emphasizing the role parliaments and their members can play in such efforts.