GlobalResearch
Center for Research on Globalization

Is It Time to Ditch the NPT, in Favor of the Treaty on the Prohibition of Nuclear Weapons (Ban Treaty)?

By Prof. Joelien Pretorius and Prof. Tom Sauer
Global Research, September 10, 2019
Bulletin of the Atomic Scientists 6 September 2019

Theme: History, Law and Justice, Militarization and WMD

In 2020, the participants in the 1970 Treaty on the Non-Proliferation of Nuclear Weapons (NPT) will congregate for the treaty's 10th review conference. Which means that it may be a good time to re-examine the relevance of the NPT, and even consider the idea of dropping this treaty in its entirety, in favor of the new kid on the block: the 2017 Treaty on the Prohibition of Nuclear Weapons, also know as the Ban Treaty. At the risk of grossly oversimplifying, one treaty seeks to stop the further spread of nuclear weapons, while the other goes further and seeks to get rid of them entirely. This difference is reflected in their formal titles.

Why should we ditch the former in favor of the latter? To answer that, let us look at history.

In the half-century of its existence, the broader objective of the NPT—to restrict the spread of nuclear weapons—has been corrupted. Instead, states possessing nuclear weapons have used the NPT to legalize their own nuclear weapons and criminalize everyone else's. The result is a one-sided and duplicitous nuclear order that is unstable, dangerous, and contrary to the expectations on which non-nuclear weapon states joined the NPT. The nuclear weapon states have squandered a number of opportunities to fulfill their end of the bargain embedded in the treaty. These include reneging on commitments given at the 1995 Review and Extension Conference, the 2000 and 2010 Review Conference conclusions, and boycotting the UN-mandated multilateral negotiations of a legal prohibition on nuclear weapons. These failures line up as proof that nuclear weapon states have no intention to give up their nuclear weapons.

Consequently, it may be time for states that are serious about nuclear disarmament to consider withdrawing from the NPT entirely. The only terms on which we see any use for these states to remain members would be if the NPT becomes a forum for an orderly and time-bound transfer from the old nuclear order—based on disingenuous and cynical interpretations of the NPT by the five nuclear weapon states (China, France, Russia, the United Kingdom, and the United States) to uphold the status quo—to a new nuclear order where the premise is that nuclear weapons are illegal for all.

A "cornerstone" of what? The NPT has often been described as the "cornerstone" of the nuclear non-proliferation and disarmament regime. This metaphor conjures up an image of a key building block securing a structure of sorts—let's say a house. The intention with the NPT was to build a house where nuclear weapons would eventually become illegal and illegitimate. Accordingly, at key points in the NPT's history, states without nuclear weapons were assured that the NPT is a blueprint for a world without nuclear weapons. Nuclear

weapons' so-called legality in the hands of those states which had conducted nuclear tests by 1967 was understood to be only a temporary measure—a means to an end, intended as a practical measure to make nuclear disarmament negotiations easier. It was based upon an earlier proposal, known as the Irish Resolution—the idea that by curbing the spread of nuclear weapons up front, it would ultimately be easier to negotiate disarmament down the road, because there would be fewer states with nuclear weapons to begin with.

Herein lies the problem: The house that was built (and continues to be built) on the NPT cornerstone is not the one that the architects promised. Instead, the nuclear weapon states have used this treaty to argue that their nuclear weapons are legal and a sovereign right. As a result, the NPT became the cornerstone of a severely hypocritical nuclear order where a few states regard wielding their nuclear weapons as legitimate while proscribing this sovereign right to other states—something which India dubbed "nuclear apartheid."

The disingenuous interpretation of the NPT has led to and reinforced entrenched nuclear military-industrial complexes. Moreover, this order has structurally enabled proliferation, arms races, the continuation of conflicts that should long ago have been resolved politically (such as the Korean Peninsula and Kashmir), war under the pretence of counter-proliferation (Iraq in 2003 and likely against Iran in the near future) and unacceptable nuclear risks—from hair-trigger alerts and accidents to terrorism. Four out of the five nuclear weapon states are not even prepared anymore to endorse the Reagan-Gorbachev principle, which states that nuclear war cannot be won and must never be fought. This led observers such as former California governor Jerry Brown and nuclear expert William Potter to conclude that "it is hard to maintain faith in the future of the NPT."

Put on the spot, defenders of the nuclear order have tried to convince us that although the house built over the last 50 years is not the one that the NPT promised, we should remain patient: The house, they claim, is simply just not finished yet. The slow pace of nuclear disarmament is attributed to the world not being safe for the elimination of nuclear weapons at the present time. The US initiative in the NPT forum, Creating an Environment for Nuclear Disarmament, is just the latest excuse to delay nuclear disarmament by postulating mythical prerequisites for its implementation.

A house of cards? Article 6 of the NPT demands that all signatories—both nuclear and non-nuclear weapon states—"pursue negotiations in good faith on effective measures relating to cessation of the nuclear arms race at an early date and to nuclear disarmament…" While the height of the (quantitative) nuclear arms race is hopefully behind us, there are still 14,000 nuclear weapons on Earth, each with a destruction capacity that is on average much larger than the Hiroshima bomb. The use of only a fraction of this worldwide arsenal is enough to destroy the world beyond recovery.

Multilateral nuclear disarmament negotiations by 124 states—which only started up in 2017—were boycotted by all the nuclear-armed states and most of their allies. Not one of the nuclear-armed states has signed the 2017 Treaty on the Prohibition of Nuclear Weapons. Instead, all the nuclear weapon states have gone the other direction, and are in the process of what they call "modernizing" their nuclear arsenals. The United States, for instance, is planning to spend $1.2 trillion (not counting inflation) over the next 30 years to modernize its nuclear weapons and their delivery vehicles. The United States and Russia, collectively possessing more than 90 percent of all nuclear weapons, are quick to point to bilateral arms control treaties as evidence of their step-by-step nuclear disarmament approach. However,

they have no qualms about dismantling these treaties on a whim when it suits them, as was the case with the Anti-Ballistic Missile Treaty and the Intermediary Nuclear Forces Treaty. That makes a mockery of Article 6.

Furthermore, contradicting one of the agreed negotiation guidelines that the NPT must embody "an acceptable balance of mutual responsibilities and obligations of nuclear and non-nuclear powers," there have been discriminatory extensions over time that tip the scales against non-nuclear weapons states. The establishment of the Zangger Committee and the Nuclear Suppliers Group, for instance, institute informal nuclear export controls on non-nuclear weapon states, while the IAEA Additional Protocol further lengthens the list of requirements for these states to prove their non-proliferation credentials.

The non-nuclear weapon states have been patient for a long time. Every five years, they reminded the nuclear weapon states about their disarmament promises. Sometimes, additional promises were made by the nuclear weapon states. In 1995, at the Extension Conference, a Comprehensive Nuclear Test Ban Treaty (CTBT) and a fissile material 'cut-off' treaty were promised, as well as negotiations of a Middle East weapons of mass destruction free zone. Today, none of these has become a reality (the CTBT is in limbo as it has not entered into force). The same applies for similar promises made at the 2000 and the 2010 Review Conferences. The United States even backtracks on these earlier promises—something that was criticized at the 2019 NPT Prepcom by countries like Sweden, Switzerland, and NATO member state Latvia. The final outcome of this Prepcom was a strong signal from the non-nuclear weapon states to the nuclear weapon states that they are running out of patience.

Let's also not forget that the "cornerstone" of the non-proliferation regime still does not contain the only nuclear proliferator in the Middle East (Israel). Nor does the non-proliferation regime contain three out of four nuclear armed states in Asia—India, Pakistan, and North Korea—as members. In sum, one third of all nuclear armed states are not at all covered by the NPT, and the prospects for bringing them in are nil. At the same time, these non-official nuclear armed states give permanent incentives to the further spread of nuclear weapons, especially in the Middle East and East Asia.

The nuclear order built on the infamous "cornerstone" therefore seems to be a house of cards, ready to topple with the next wave of proliferation, in all likelihood in the Middle East (Iran, Saudi Arabia, and maybe others like Turkey and Egypt). Former Canadian diplomat **Paul Meyer** concludes that

> "it is a wonder that the NPT retains any credibility as a framework for global nuclear governance."

Along the same lines, Harvard academic Rebecca Davis Gibbons fears that "without change, [the NPT] will likely suffer a slower but no less consequential death."

A Hobbesian world after withdrawal? Many observers, like the Ukrainian scholar, Polina Sinovets, fear the end of the NPT, as it might lead us to "a truly Hobbesian nightmare" where the old rules are abandoned and the new ones have not been developed or have not been accepted by all.

That fear is unjustified for two reasons. First, as stated above, the NPT is not the cornerstone

of the non-proliferation and disarmament regime anymore. It has become an obstacle to its own ideals, a farce of empty promises. The longer it persists (without fulfilment of Article 6), the less relevant and more politically void it becomes. We are reaching the moment where more states—perhaps many more states—will start leaving the treaty anyhow. Some may leave because they are tired of not being treated respectfully; others for fear of becoming targets of aggression under fabricated premises of nuclear proliferation.

Second—and this is something that many observers have not thought through—the NPT can and in all likelihood will be replaced by the Ban Treaty. Most states, at least if they sign the Ban Treaty, would be bound by the Ban Treaty's prohibitions—which include NPT safeguards. The Ban Treaty embodies all that the NPT stood for originally and more. It provides the necessary framework for negotiating the verifiable elimination of nuclear weapons when nuclear armed states join.

What would states who withdraw from the NPT lose?

Nothing. On the contrary, we would end up living in a different world, that replaces a discriminatory regime with a regime in which all states are equal—at least with respect to the possession of nuclear weapons. It would be a world without a treaty that ends up legitimizing nuclear weapons for a small group of states while condemning their acquisition by most other states. It would be a world in which nuclear weapons and their possessors would be regarded as pariah states, possessing defense instruments that are not only inhumane, immoral and illegitimate, but also illegal once the Ban Treaty enters into force.

Is it possible to redeem the NPT? If the original intent of the NPT is followed through to its logical conclusion, the NPT must be superseded or amended. A world without nuclear weapons does not need an NPT, because there would be no (legal) nuclear weapon states. However, such a world has need for the system of safeguards and verification that the NPT has established.

The only way that we see any worth in states continuing to be members of the NPT is if the NPT becomes a dynamic and *time-bound* forum for the orderly transition to a new nuclear order where nuclear weapons are illegal for all. Such a transition would start with nuclear weapon states and their allies joining the Ban Treaty or initiating the negotiation of a Convention on the Elimination of Nuclear Weapons. The NPT Review Conferences could then be used to determine what aspects of the NPT must survive into the new nuclear order—such as safeguards and how to bring non-NPT nuclear armed states into the fold of nuclear disarmament. But, inevitably, the NPT must be replaced with another international agreement—be it the Ban Treaty or a newly negotiated instrument—that abolishes nuclear weapons, oversees their elimination, and institutes a universal system to ensure nuclear abstinence for all.

If the penny doesn't drop soon for nuclear weapon states that this is the only way forward, then rationally there seems little else for states that are serious about a world without nuclear weapons to do, but to walk away from the NPT.

*

Note to readers: please click the share buttons above or below. Forward this article to your email lists. Crosspost on your blog site, internet forums. etc.

Joelien Pretorius *is an associate professor in Political Studies at the University of the Western Cape, South Africa.*

Tom Sauer *is an associate professor in international politics at the Universiteit Antwerpen in Belgium.*

Featured image: UN/IAEA inspectors examine suspect equipment in Iraq following the 1991 Gulf War. Photo Credit: IAEA Action Team

---