
United Nations conference to negotiate a legally binding instrument to prohibit nuclear weapons, leading towards their total elimination

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The Turtle, The Horse and Nuclear Weapons

Submitted by Global Security Institute¹

1. Presently, neither leadership nor support in the pursuit of nuclear disarmament can be expected from the nuclear weapons states. They have not vigorously pursued the incremental steps for which there is enormous international support to help make us safer and strengthen the nonproliferation regime and international law and security. For this reason, the door is not closed on nuclear testing; there are no negotiations on a nuclear weapons free zone in the middle east; there are no negotiations on a treaty cutting off further production of weapons grade fissile materials; and, the compromises and diplomatic efforts needed to continue the cuts in arsenals under the START process are not being achieved. The debate in the corridors of power in the nuclear weapons states on how to achieve nuclear disarmament is virtually nonexistent and the discussions revolve around the concept of strategic stability and the pursuit of military dominance.

2. If a cart is hooked up to a horse and a turtle which direction will it get pulled? The contradictory doctrines of strategic stability – a virtual turtle – and the military pursuit of dominance, power, and privilege – a virtual horse -- are doctrines and policies simultaneously pursued by states with nuclear weapons. Consistently the horse pulls stronger because it has more energy in the form of a greedy constituency and measurable deliverables in profit, popularity and power. The horse is presently running without adequate reigns of law and morality, humanity's most important tools to control passions, institutions and behavior.

3. That is why the negotiations to prohibit nuclear weapons are historical, unlike any before. We must succeed in putting the reigns in place before the horse takes the cart off the cliff.

4. Nuclear weapons are, as deployed, already incompatible with International Humanitarian Law which prohibits, even in war, the use of force that causes unnecessary suffering or fails to distinguish between civilian populations and combatants. A prohibition treaty putting clear positive law in place will reinforce this fact. Let us not forget, it is not only the prohibition treaty that makes nuclear weapons illegal; it is the fact of their indiscriminate horrific effects that makes them illegal. The norm against annihilating massive numbers of innocent civilians exists. The threat to violate it with the

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possible utter destruction of civilization is patently immoral and illegal and must be stopped now.

5. Please consider inclusion of the following concepts in the Preamble:

The ongoing threat to use nuclear weapons diminishes international peace and security and the peaceful resolution of disputes, foundations of the United Nations, by placing the entirety of civilization at risk daily.

The threat to use nuclear weapons as currently deployed is an affront to our humanity and violates the most basic principles of International Humanitarian Law. The current deployments and doctrines of deterrence contemplate doing the unthinkable. Annihilating entire populations, and possibly all civilization, and threatening to do so, is illegal.

6. Because red lights are established does not in any way diminish the importance of prohibitions against reckless driving. Prohibitions against reckless driving are similar to prohibitions set forth under International Humanitarian Law. A treaty banning and prohibiting nuclear weapons is akin to a clearly defined red light. The current posture of brandishing nuclear weapons is recklessly driving the human race over the cliff and a red light in the form of a Prohibition Treaty by the majority of the world's nations will help bring this irresponsible conduct to public exposure, condemnation, and termination.

7. It is worth highlighting that the nuclear weapons states have not clearly set forth how their current nuclear weapons deployments and targeting plans are compliant with International Humanitarian Law. They have not offered persuasive facts to demonstrate that the uses contemplated would not cause unimaginable long-term human suffering far beyond any reasonable military purpose. The International Court of Justice, in addressing the Threat of Use of Nuclear Weapons, stated the relevant principles guiding an analysis of threats to take actions that violate International Humanitarian Law:

1. "(I)f the use of force itself is illegal -- for whatever reason -- the threat to use such force will likewise be illegal." (The Threat or Use of Nuclear Weapons, 1996 I.C.J., at 246)

2." If an envisaged use of weapons would not meet the requirements of humanitarian law, a threat to engage in such use would also be contrary to that law."(Supra, at 257)

8. This language proposed above prohibiting the uses and threats of the use of a weapon of indiscriminate effect reinforces prohibitions set forth in the UN Charter in Chapter I, Article 2.4, which states that all Members States shall "refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations." It does reinforce the fact that nuclear weapons violate both the purposes of the United Nations and another doctrine of international law regarding the use of force, International Humanitarian Law.

9. Expenditures for the nuclear arsenals, especially in the pursuit of modernization, are a theft of the future. Silence is complicity.