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THE NPT AND THE HUMANITARIAN INITIATIVE: TOWARDS AND BEYOND THE 2015 NPT REVIEW CONFERENCE

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Introduction

The existing nuclear non-proliferation and disarmament regime, which was designed in the 1960s and 1970s, has certainly its merits. The lack of serious engagement on behalf of the nuclear weapon states (NWS) to eliminate their nuclear weapons, as required by the Nuclear Non-Proliferation Treaty (NPT), however, is more and more being criticized by the non-nuclear weapon states (NNWS). Their patience is running out of steam, and, crucially, they have found leverage in the form of the so-called humanitarian initiative, including the prospect of banning nuclear weapons. The upcoming five-yearly NPT Review Conference - from 27 April to 22 May 2015 in New York - will be a test of the strength of the humanitarian initiative as well as an indication whether the NWS have understood the message.

This paper wants to find out to what extent the NPT and the humanitarian initiative are complimentary, and aims to assess this new narrative in view of the upcoming NPT Review Conference.

The Nuclear Non-Proliferation Treaty anno 2015

The spread of nuclear weapons to more and more states (let alone non-state actors) is generally regarded as a threat to international peace and security. The NPT entered into force in 1970 after Ireland had taken the initiative in 1958, later on supported by the former superpowers.

The NPT aims to prevent the further spread of nuclear weapons to more countries, and is still the cornerstone of the overall nuclear non-proliferation regime. In terms of membership, it is one of the most successful treaties ever. All states in the world, except Israel, Pakistan and India, signed up in the end.¹ That is remarkable because they had to promise never to build nuclear weapons. Only the United States, the USSR, the United Kingdom, France, and China were recognized as nuclear

weapon states, at least for the time being, as they already carried out a nuclear explosion before 1967. There is a general consensus that the NPT has raised the bar against further proliferation, together with other non-proliferation mechanisms such as coercion by the superpowers, the International Atomic Energy Agency (IAEA), informal rules, and norms.²

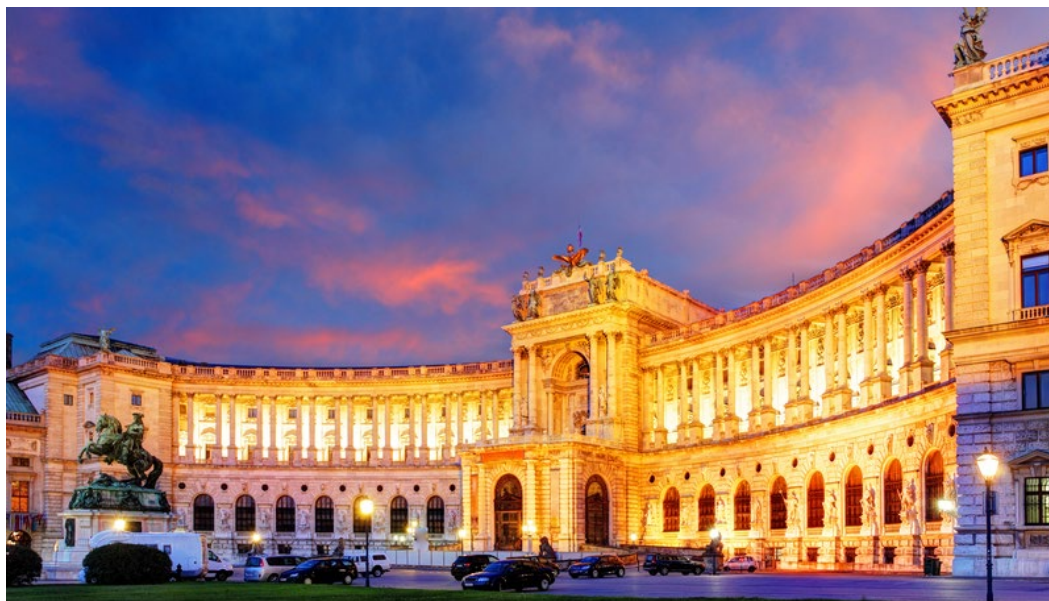
The NPT, however, has also limits. If a country is really determined to go nuclear, it can build nuclear weapons in secret and at a certain point in time announce its withdrawal from the treaty, just as North Korea did in 2003. If this example is followed by other states (e.g. Iran), it will undoubtedly jeopardize the treaty. Another flaw in the treaty is that the acquisition of large civilian nuclear (including enrichment and reprocessing) facilities is in principle allowed, but once a country has acquired such facilities building the bomb is relatively easy.

Most significantly, the NPT is discriminatory as it makes a distinction between nuclear and non-nuclear weapon states. The last group only agreed not to acquire nuclear weapons on two conditions: one, that they would not be blocked from acquiring civilian nuclear facilities and could get support in this regard (Art. 4); and secondly, that the nuclear weapon states promised to get rid of nuclear weapons (Art. 6). Without this deal, there would not have been a treaty. Article 6 reads:

'Each of the parties to the treaty undertakes to pursue negotiations in good faith on effective measures relating to cessation of the nuclear arms race at an early date and to nuclear disarmament, and on a treaty on general and complete disarmament under strict and effective control.'

Arguably the biggest lacuna in the text is the lack of a deadline with respect to nuclear disarmament. Article 6 requires the parties to start up two nuclear disarmament negotiations: one to stop the nuclear arms race and

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Vienna Hofburg Palace where the third conference on the humanitarian impact of nuclear weapons took place in 2014. Copyright: Tomas 1111.

another to eliminate nuclear weapons. Quantitatively speaking, the arms race has been halted. But the remaining ones - still 18,000 on earth - are constantly being modernized. The United States alone is planning to modernize its nuclear weapons arsenal for \$1,000 billion over the next 30 years. Whether the first part of Article 6 is fulfilled is therefore debatable. A similar evaluation applies to the second part: the NWS claim that nuclear negotiations with respect to nuclear disarmament have been held. That is correct to the extent that there have been bilateral arms reduction negotiations between the United States and the USSR (and later on Russia). However, these negotiations had not elimination as its immediate focus, while that is required by the treaty. The NWS have neither initiated multilateral negotiations with the aim of eliminating all nuclear weapons, and they are still unwilling.

The bottom-line is that a very large group of parties under the treaty believe that the NWS are not fulfilling their nuclear disarmament obligations under the treaty, while at the same time they themselves do fulfil their obligations. They claim that the nuclear arms reductions have been far too little and far too late, that the NWS keep hanging on to their nuclear weapons and that they do not take the goal of nuclear elimination seri-

ously. Many NNWS feel deeply disrespected in this regard. This frustration is reaching a point where the issue is seen in terms of injustice.³

These grievances are regularly uttered by the NNWS, for instance at the five-yearly NPT Review Conferences. The NNWS succeeded in convincing the NWS to adopt '13 steps' at the Review Conference in 2000 as well as an action plan including 22 disarmament actions ten years later. These steps or actions, however, are not implemented, or only to a very limited extent.⁴ Sometimes, like in 2005, the Review Conference completely fails due to a lack of consensus between the NNWS and the NWS, predominantly on the issue of nuclear disarmament.

The current nuclear disarmament crisis, however, runs even deeper. Also other multilateral arms control institutions seem to have grinded to a halt. Take for instance the UN Conference on Disarmament (CD) that in the past succeeded in negotiating the Chemical Weapons Convention (1993) and the CTBT (1996). Since the end of the 1990s, however, the CD has not been able to discuss substantial matters as the parties were not even able to agree on an agenda. In short, nuclear disarmament is at an impasse, and as a result the overall nuclear non-proliferation regime is in crisis.⁵ The humanitarian initiative is a direct answer to this impasse.

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Hiroshima ground zero. Between 70,000 and 80,000 inhabitants of the city died immediately because of the bombing. Copyright: Neale Cousland.

*The humanitarian initiative*⁶

Crises are challenges. New ideas come up, the best are picked up and gain support. The idea of a nuclear weapons ban, as part of the larger humanitarian initiative, is such a promising idea. The Austrian delegation warned already at the NPT Review Conference in 2010: ‚If there is no clear progress towards “global zero”, we will discuss with parties the feasibility of a global instrument to ban these weapons. The NPT remains the cornerstone of the international nuclear nonproliferation regime. But a static regime that has lost its vision may benefit from fresh ideas.⁷ Alexander Kmentt, the Austrian official in charge of nuclear disarmament, repeated later on: ‚the tactics of playing for time [by the NWS]...will not work for much longer‘.⁸ The alternative that is proposed is the humanitarian initiative.

Characteristic of the humanitarian initiative is that it focuses on the question whether and how societies can cope with the consequences of the use of nuclear weapons, a question that

was basically neglected during the Cold War. Nuclear weapons are not supposed to be used (if the rules of the nuclear deterrence game are followed) but that does not mean that they will not be used. As former Secretary of Defence Robert McNamara warned: ‚The indefinite combination of nuclear weapons and human fallibility will lead to the destruction of nations‘.⁹

The humanitarian initiative therefore asks the fundamental question what will be the consequences if these weapons will be used again, be it in an authorized, unauthorized or accidental way. Recent studies reveal that the nuclear winter theories of the past were not incorrect. For instance, the use by India and Pakistan of 50 nuclear weapons each, which is only a fraction of the existing arsenals worldwide, would lower the temperatures on earth to the extent that hundreds of millions (up to 1 to 2 billion people) could die of starvation as less food (like rice) would be available.¹⁰ Even the use of just one modern nuclear weapon would have catastrophic consequences that could result in

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First Soviet nuclear bomb. Copyright: Zuperpups.

tens or hundreds of thousands of people dying if dropped on a city.¹¹ Because nuclear weapons by definition cannot make a distinction between civilians and the military their use is generally recognized (except by the NWS) as being contrary to international humanitarian law.¹² As a result, advocates of the humanitarian initiative propose that nuclear weapons should be banned, just as biological weapons (1972) and chemical weapons (1993), and more recently landmines (1997) and cluster munitions (2008) have been declared illegal.

Two factors explain the origins of the humanitarian initiative in the mid-2000s. First, the end of the Cold War had opened up the possibility of fundamental change. However, the nuclear doctrines of the nuclear weapon states did not change in a significant way. The basic paradigm of the Cold War - nuclear deterrence - lived on, while the general public seemed not to care anymore about the remaining nuclear arsenals. Nuclear weapons only made headlines in the news when it was unveiled that „rogue states“ like Iraq, North Korea or Iran tried to acquire nuclear weapons in secret. After 9/11, the threat of nuclear terrorism was taken more serious. Unfortunately, the link between these new threats and the existing nuclear weapons arsenals was not made. Governments had - rightly or wrongly - other priorities than nuclear disarmament. It is not surprising therefore to find out that

nuclear disarmament basically stalled from the mid-1990s onwards.

Consequently, according to the advocates of nuclear disarmament, there was a clear need to bring this issue again to the fore, and preferably in an original way that would trigger the interest of the public at large. Hence the humanitarian initiative, which is a serious contender for the mainstream narrative of nuclear deterrence that had dominated the Cold War and beyond. The humanitarian initiative is an approach that people may more easily understand and cherish. Assuming that the push for a nuclear weapon free world will have to come at least partly from the general public, including in the NWS, the humanitarian narrative is a blessing for those who kept the flame of nuclear disarmament after the end of the Cold War. By banning nuclear weapons in the short or medium term, even without the initial approval of the nuclear weapon states, its advocates hope to strengthen further the existing anti-nuclear norm, and at the same time initiate a societal debate inside the NWS about the future of nuclear weapons.

Second, the humanitarian initiative is a logical extension of the increasing role of international (humanitarian) law in international politics since the end of the Second World War: e.g., the Conventions of Geneva (1949) that have been supplemented with the Additional Pro-

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protocols in 1977; the idea of the Responsibility to Protect (R2P); Criminal Courts that have been set up after the genocide in Ruanda and the wars in the former Yugoslavia; the International Criminal Court that was established in 2002; and the norm against inhumane weapons that was strengthened with the ban on landmines (1997) and on cluster munitions (2008). Given this evolution with respect to the jus ad bellum and jus in bello, one can indeed wonder why nuclear weapons, which are the most destructive weapons, are not yet banned.¹³

In the same vein, the Marshall Islands launched a lawsuit at the International Court of Justice against all nine NWS on 24 April 2014. It claims that their islands in the South Pacific still suffer negative health and environmental effects as a result of the 67 nuclear tests - not unrelated to nuclear weapons use - conducted by the United States in the 1940s and 1950s, including a test with a 15 megaton bomb (or 15,000 KT).¹⁴ If it wins the lawsuit, the Marshall Islands will not ask for financial compensation, but for the abolition of the nuclear weapons arsenals as required by international law.

The humanitarian initiative took the concrete form of a series of international conferences.

The idea for such conferences came from a number of fresh international NGOs that were established by activists that had been previously successful in banning landmines and cluster munitions. More in particular the International Campaign to Abolish Nuclear weapons (ICAN)¹⁵ (and to a lesser extent Global Zero¹⁶) are at the forefront of this new initiative. Established in the mid-2000s, they try to raise the issue, especially with the goal of reaching the younger generations. Existing peace organizations, focussed on more limited goals (like the CTBT or the withdrawal of U.S. tactical nuclear weapons from Europe) were rather sceptical at the beginning. But the humanitarian initiative got a boost when also Realists like Henry Kissinger and George Schultz openly spoke out in favour of nuclear elimination in an op-ed in *The Wall Street Journal* in the beginning of 2007, although they used a more classic discourse based on national interests, security and the threat of proliferation.¹⁷ Two years later, the newly elected U.S. President Barack Obama gave a very stimulating speech on nuclear elimination in Prague.¹⁸

In the meantime, these NGOs had been able to convince states like Switzerland, Austria



Fictional nuclear bomb explosions above city. The effects of a nuclear bomb explosion are indiscriminate. Copyright: twindesigner.

and Norway for their cause. Together with the International Committee of the Red Cross (ICRC), these states succeeded in introducing the following reference to the humanitarian cause into the Final Document of the 2010 NPT Review Conference, also agreed upon by the five NWS: 'The Conference expresses its deep concern at the catastrophic humanitarian consequences of any use of nuclear weapons and reaffirms the need for all states at all times to comply with applicable international law, including international humanitarian law'.¹⁹

As an extension of that clause, Switzerland introduced a text on the humanitarian approach at the 2012 UN General Assembly (GA) First Committee, which was supported by 34 states.²⁰ At the 2013 NPT PrepCom 80 states backed a similar text by South Africa.²¹ At the 2013 and 2014 UN GA First Committee a similar statement by New Zealand was co-sponsored by respectively 125 and 155 states.²²

Furthermore, Norway - a NATO member state - organized an intergovernmental conference on the humanitarian consequences of the use of nuclear weapons in March 2013, which was attended by 128 states. Of the nine NWS, however, only India and Pakistan attended. The United States, the United Kingdom and France called it 'a distraction' to the step-by-step approach of nuclear disarmament.²³ The second conference that was held in Mexico in the beginning of 2014 attracted 146 states. On 8-9 December 2014, 156 states attended the third conference in Vienna (Austria). Remarkably, this time even the United States and the United Kingdom (as well as a representative of a Chinese government-related think tank) were present. Of all NWS, only Russia, Israel, North Korea and France were absent in Vienna.

The impact of the humanitarian initiative on the 2015 NPT Review Conference

The 2015 NPT Review Conference will be the first Review Conference organized after

the rise of the humanitarian initiative. Many observers believe that the humanitarian initiative will hang as a shadow over the conference, or even directly influence its outcome: maybe not so much in the sense of making or breaking the conference, as its advocates do not want to be blamed for the likely failure of the conference, but more in terms of next steps to take.

Regardless of the humanitarian initiative, the following two items will stand out at the Review Conference: the lack of progress towards a weapons of mass destruction free zone (WMDFZ) in the Middle East, and the lack of fundamental progress towards nuclear elimination. The promise of a WMDFZ in the Middle East was part of the deal when the NPT was extended in 1995.²⁵ At the Review Conference in 2010, the Arab states succeeded in being promised that at least a conference on this topic with all stakeholders in the region (including Iran and Israel) would be held before the end of 2012. As that did not happen, the Arab states were not amused, to say the least. Egypt simply walked out of the 2013 NPT PrepCom meeting.

As no conference has been held on the issue of a WMDFZ in the Middle East, despite active diplomacy by the Finnish facilitator, and as no fundamental progress has been made on nuclear disarmament, the odds are that the non-nuclear weapon states and the nuclear weapon states will fail to agree on a consensus document at the end of May, which is generally seen as the criterion for success of a Review Conference.

Fortunately, the failure of the Review Conference does not mean the end of the NPT, as history has shown. Nevertheless, there is a general feeling that a point of no return has been reached. Like Austria, many NNWS do not believe anymore that the NPT framework is sufficient to pressure the NWS to fulfil their disarmament obligations. Too many action plans and promises have been made that have not been implemented. According to those NNWS, it is time that the humanitarian

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initiative will be plugged in into the overall nuclear disarmament and non-proliferation regime. Some observers are afraid that if this Review Conference fails, the NPT will become further sidelined and be overtaken by the humanitarian initiative. While the latter may be true, the NPT may also be saved from oblivion by the humanitarian initiative. Without any progress on nuclear disarmament, more states may leave the NPT in the future.

Crucially, the main objective of the humanitarian initiative is complimentary to the goals of the NPT. As Eamon Gilmore, the Irish Minister of Foreign Affairs, stated at the UN High-Level Meeting on Nuclear Disarmament on 26 September 2013: 'We believe that the humanitarian imperative for nuclear weapons disarmament is written into the DNA of the Nuclear Non-Proliferation Treaty. It is why we have the Treaty'...'Today, the re-emergence of the humanitarian consequence narrative offers each of us an opportunity to return to first principles. The humanitarian approach provides more concrete ways to realize elimination, namely by outlawing nuclear weapons first in the hope of influencing the domestic debate inside the nuclear weapon states.'²⁶

Furthermore, the humanitarian approach and the gradual step-by-step approach are not in complete contradiction to each other. Once a nuclear weapons ban exists, the nuclear weapon states have to be convinced to join the ban and to start multilateral disarmament negotiations for a Nuclear Weapons Convention (NWC), including a time-frame and verification mechanisms, which will on its turn lay out further concrete steps towards a world without nuclear weapons. As long as there is no NWC, let alone a nuclear weapons free world, the NPT remains very much relevant, if only to prevent proliferation that would further complicate the road towards a world without nuclear weapons.

The upcoming Review Conference will be a test to what extent the humanitarian initiative has already become mainstream. Austria



United Nations General Assembly Hall in New York. From April to May 2015, States Parties to the NPT will meet for the Treaty's Review Conference. Copyright: Songquan Deng.

- the convenor of the last humanitarian conference - has issued the so-called Austrian Pledge²⁷, and has asked all NPT signatories to refer to the Austrian Pledge at the Review Conference. The Austrian Pledge is a smart diplomatic initiative that walks the middle road between what had been agreed at the humanitarian conferences so far, and a ban, which is still perceived as a taboo by some countries. The crucial passage in the pledge is: 'calls on all states parties to the NPT... to identify and pursue effective measures to fill the legal gap for the prohibition and elimination of nuclear weapons'. 55 states, including 33 Latin American and Caribbean states, have already promised to support the Austrian Pledge.²⁸ In case the Austrian Pledge is successful at the Review Conference, and in case the Conference fails to end up with a consensus document, one can expect that a fourth humanitarian conference will be announced (possibly in South Africa or Brazil), maybe already at the end of 2015. At that conference, a group of states may announce the start of negotiations for a Nuclear Weapons Ban Treaty. As a Nuclear Weapons Ban Treaty is expected to be short, and as it is expected that the NWS will not be part of the negotiating body, the odds are that these negotiations will not linger on for a long time, and that a ban could already be announced shortly thereafter.

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A Nuclear Weapons Ban Treaty will be a game-changer as it will raise the anti-nuclear norm to levels unseen. By declaring nuclear weapons illegal, the nuclear weapon states will be more and more cornered and be regarded as pariah states, which on its turn might trigger a domestic debate in most of the NWS. As Acheson and Fihn argue: 'It will also support a new discourse about nuclear weapons that understands them as weapons of terror, instability and insecurity rather than as "deterrents" or instruments of stability'.²⁹

In order to reach the goal of a world without nuclear weapons, different groups of states will need to take their responsibility along the road. Ideally, the Ban Treaty is negotiated and signed by a large group of states, let's say at least 120. As this number of states is nowadays already part of a regional nuclear weapons free zone, reaching this number should not be insuperable. To reach this stage, the countries of the Non-Aligned Movement carry a large responsibility. If they can overcome their differences and if they can stand the pressure from the NWS³⁰, they could make a tremendous difference. If not, it will (only) take longer before the pressure on the NWS can be fully raised.

Nevertheless, that will not be sufficient. The states that will be crucial in a following phase will be those that are currently „protected“ by a nuclear umbrella. The 25 NATO NNWS as well as countries like Japan, South Korea and Australia will have to make a cost-benefit calculus in the not so distant future: whether to keep hanging on to a policy based on nuclear deterrence, or to join the rest of the non-nuclear weapon states around the world in sending a clear message to the nuclear weapon states to finally eliminate their nuclear arsenals.³¹ Only three NATO member states have up to now supported the humanitarian initiative: Norway, Denmark and Iceland. However, if 120 to 150 states in the world announce a ban on nuclear weapons, it is hard to believe that fence-sitting states like Germany, Belgium, the Netherlands, and many other NATO NNWS, as well as Japan will keep

standing together with the few NWS. Henk Cor van der Kwast, the Dutch official representative stated at the 2014 PrepCom: ‚the discussion on the humanitarian consequences...can invigorate the drive towards global zero‘.³² The odds are that public opinion in those countries will force their governments to agree with the ban, as it will be seen as the most effective - and only - way to pressure the nuclear weapon states to take serious their legal obligation to eliminate nuclear weapons. Only in the last stage, maybe sooner than many would expect, the NWS have to take their responsibility and look into the mirror, and decide whether the overblown benefits of nuclear weapons³³ keep weighing up against the many costs that are related to nuclear weapons.

Criticisms vis-à-vis the humanitarian initiative and rebuttals

There are of course many sceptics. Apart from those who dislike the idea of a world without nuclear weapons, three kinds of criticisms exist:

First, some states, including the so called „umbrella“ states, still rely on nuclear deterrence, and therefore cannot yet agree on a ban. The answer to that logic is that these states should start questioning their security policies because 1) there are more credible and therefore more reassuring deterrent alternatives for nuclear weapons³⁴; 2) a policy based on nuclear deterrence also carries tremendous risks³⁵; 3) is a recipe for more proliferation and therefore an increased risk of nuclear weapons use, for which no society is prepared. As a 2015 statement by the ICRC argues: ‚Weapons that risk catastrophic and irreversible humanitarian consequences cannot seriously be viewed as protecting civilians or humanity as a whole‘.³⁶

Second, nuclear disarmament is a step-by-step process, it cannot be forced by decree; a ban is too large a step, and therefore „a distraction“ to the classic arms control approach. It is way too soon to talk about time-frames, opponents claim.

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The answer to this criticism is that the step-by-step approach is going much too slow while the spread of nuclear weapons continues, and with that the risk that they will be used again. Above all, what is missing is a clear commitment by the NWS that they really want to eliminate their nuclear weapons. The current modernization plans of the NWS³⁷ are a clear manifestation of the lack of a political willingness to eliminate their nuclear arsenals. As the New Agenda Coalition statement at the 2014 PrepCom argued: „Failure to establish a structured framework ... to pursue multilateral nuclear disarmament, as required by the NPT, has meant that the process of disarmament has taken on the appearance of a voluntary endeavour to be undertaken by the NWS at a pace, in a manner, and on terms to be decided exclusively by them. However ... nuclear disarmament, however onerous and expensive, is not a voluntary endeavour. It is a Treaty obligation.³⁸“

That is why the NNWS have to step up the pressure and where the idea of a nuclear weapons ban comes in: not by forcing the NWS to agree, which is not possible, but by stimulating a debate inside the NWS about the future of their respective nuclear arsenals. A ban treaty - that, by the way, does not talk about time-frames - may help convince at least some of the NWS that their nuclear weapons policies are not sustainable, and that they have to take their NPT obligations seriously. Once that step has been taken, classic arms control will compliment the ban in the form of multilateral negotiations for a Nuclear Weapons Convention. Just like France and China became only member of the NPT in 1992, some NWS may step in at a later time. By definition, however, all NWS have to participate at a certain moment; otherwise, a nuclear weapons-free world is not possible.

Third, nuclear weapons cannot be compared with landmines and cluster munitions. Admittedly, nuclear weapons are a different kind of weapon system than landmines and cluster munitions. Indeed, nuclear weapons are more deeply engrained in the defense postures than landmines and cluster munitions; at the same time, if used, they are much more destructive and inhumane than landmines and cluster munitions.

Lastly, nuclear weapons are compared with landmines and cluster munitions because of the process that was used to eliminate them, more in particular the following mechanisms: 1) the initiative was taken by existing (including the ICRC) and new international NGOs; 2) that on their turn were able to convince states - middle powers - to take the lead in convincing other states in or outside the existing disarmament bodies to take their responsibility and eliminate a class of weapons whose use is regarded by most human beings as being inhumane.

Conclusion

To conclude, muddling through, like during the last two decades, is a recipe for more proliferation (including to non-state actors) and increases the risk of the use of nuclear weapons. The NPT helped to manage but did not prevent further proliferation, and is a failure with respect to Article 6. The humanitarian initiative and more in particular a possible ban on nuclear weapons may be the best instrument to spark the necessary debate inside the nuclear weapon states about the future of their nuclear arsenals, and will hopefully lead to a multilaterally negotiated Nuclear Weapons Convention. Thereafter, both the nuclear weapon states and the non-nuclear weapon states will have to take their responsibility to manage the road to nuclear zero in a gradual process, but in contrast to the NPT within clear timeframes.

Above all, what is missing is a clear commitment by the nuclear weapon states that they really want to eliminate their nuclear weapons.

Indeed, nuclear weapons are more deeply engrained in the defense postures than landmines and cluster munitions; at the same time, if used, they are much more destructive and inhumane than landmines and cluster munitions.

- 1 Israel, India and Pakistan also acquired nuclear weapons. Apart from the five "official" NWS and these three "unofficial" NWS, only North Korea possesses nuclear weapons.
- 2 Harald Müller and Andreas Schmidt, 'The Little Known Story of Deproliferation: Why States Give Up Nuclear Weapons Activities', in: William Potter (ed), *Forecasting Nuclear Proliferation in the 21st Century* (volume 1), Stanford University Press, Stanford, 2010, pp.124-158.
- 3 George Perkovich, 'Giving Justice its Due', in: *Foreign Affairs*, July/August 2005.
- 4 For a score board of the implementation of the 2010 NPT RC action plan, see: <http://reachingcriticalwill.org/news/latest-news/9563-new-publication-the-2015-npt-action-plan-monitoring-report>.
- 5 Alexander Kmentt, 'How Divergent Views on Nuclear Disarmament Threaten the NPT', in: *Arms Control Today*, vol.43, no.10, December 2013; Paul Meyer, 'Saving the NPT', in: *Nonproliferation Review*, vol.16, no.3, November 2009, pp.463-472; Tom Sauer, 'The Nuclear Non-proliferation Regime in Crisis', in: *Peace Review*, vol.18, no.3, 2006; Alexei Arbatov, 'An Unnoticed Crisis: the End of History for Nuclear Arms Control?', in: Carnegie Moscow Center website article, 16 March 2015. For a more optimistic view, see: Liviu Horovitz, 'Beyond Pessimism: Why the Treaty on the Non-Proliferation of Nuclear Weapons Will Not Collapse', in: *Journal of Strategic Studies*, vol.38, no.1-2, 2015, pp.126-158.
- 6 For a more extensive view on the humanitarian initiative, see: Beatrice Fihn (ed), *Unspeaking Suffering - The Humanitarian Impact of Nuclear Weapons*, Reaching Critical Will and ICAN, 2013; John Borrie, 'Humanitarian Reframing of Nuclear Weapons and the Logic of a Ban', in: *International Affairs*, vol.90, no.3, 2014, pp.625-646; Rebecca Johnson, 'Banning Nuclear Weapons', in: *OpenDemocracy*, 26 February 2013; Tom Sauer and Joellen Pretorius, 'Nuclear weapons and the humanitarian approach', in: *Global Change, Peace and Security*, vol.26, no.3, 2014, pp.233-250.
- 7 Statement by H.E. Mr. Michael Spindelegger at the 2010 Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons, see: <http://www.bmeia.gv.at/das-ministerium/presse/reden-und-interviews/2010/statement-by-he-mr-michael-spindelegger-at-the-2010-review-conference-of-the-parties-to-the-treaty-on-the-non-proliferation-of-nuclear-weapons/>.
- 8 Alexander Kmentt, *ibid.*
- 9 Robert McNamara, *The Fog of War*, documentary, esp. lesson 2.
- 10 Owen B. Toon et al., 'Atmospheric Effects and Societal Consequences of Regional Scale Nuclear Conflicts and Acts of Individual Nuclear Terrorism', *Atmospheric Chemistry and Physics*, 7 (2007), pp. 1973–2002; Michael J. Mills et al., 'Multidecadal Global Cooling and Unprecedented Ozone Loss Following a Regional Nuclear Conflict', *Earth's Future*, vol. 2, no. 4, 2014, pp.161–176.
- 11 *The Effects of Nuclear War*, Office of Technology Assessment, U.S. Congress, Washington DC, 1979.
- 12 Dean Granoff and Jonathan Granoff, 'International Humanitarian Law and Nuclear Weapons: Irreconcilable Differences', in: *The Bulletin of the Atomic Scientists*, vol.67, no.6, 2011, pp.53-62.
- 13 The International Court of Justice in 1996 was rather vague in its verdict, noting: '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'. However, 'in view of the current state of international law, and of the elements of fact at its disposal, the Court cannot conclude definitely whether the threat or use of nuclear weapons would be lawful or unlawful in an extreme circumstance of self-defense, in which the very survival of a State would be at stake'. But even under these circumstances, the court added, nuclear weapons should be used within what is allowed by international law. And the court, on the basis of the knowledge that it had gathered, could not imagine a scenario in which the use of nuclear weapons would not violate international law.
- 14 In comparison: the Hiroshima bomb had a destructive capacity of 14 KT. For more information on the lawsuit, see: Avner Cohen and Lily Vaccaro, 'The Import of the Marshall Islands nuclear lawsuit', in: *The Bulletin of the Atomic Scientists* (website version), 6 May 2014; Marshall Islands Case, in: *IALANA Special Newsletter*, July 2014, 22 p.
- 15 See: <http://www.icanw.org/>.
- 16 See: <http://www.globalzero.org/>.
- 17 George Schultz, William Perry, Henry Kissinger and Sam Nunn, 'A World Free of Nuclear Weapons', in: *The Wall Street Journal*, 4 January 2007. See also: <http://www.wsj.com/articles/SB116787515251566636>.
- 18 See: http://www.whitehouse.gov/the_press_office/Remarks-By-President-Barack-Obama-In-Prague-As-Delivered.
- 19 2010 NPT Review Conference, Final Document, NPT/CONF.2010/50 (vol. I), see: <http://www.un.org/en/conf/npt/2010/>.
- 20 United Nations, General Assembly, First Committee, 67th session, 'Joint Statement on the humanitarian dimension of nuclear disarmament', Delivered by Ambassador Benno Laggner of Switzerland, 22 Oct. 2012, see: http://www.reachingcriticalwill.org/images/documents/Disarmament-fora/1com/1com12/statements/22Oct_Switzerland.pdf.
- 21 NPT PrepCom 2013, Joint Statement on the Humanitarian Impact of Nuclear Weapons, delivered by Ambassador Abdul Minty (South Africa), see: http://www.reachingcriticalwill.org/images/documents/Disarmament-fora/npt/prepcom13/statements/24April_South-Africa.pdf.
- 22 For the text of 2013, see: United Nations, General Assembly, First Committee, 68th session, 'Joint Statement on the humanitarian

consequences of nuclear weapons', Delivered by Ambassador Dell Higgie of New Zealand, 21 Oct. 2013, http://www.reachingcriticalwill.org/images/documents/Disarmament-fora/1com/1com13/statements/21Oct_Joint.pdf; for the text of 2014, see: United Nations, General Assembly, First Committee, 69th session, 'Joint Statement on the humanitarian consequences of nuclear weapons', Delivered by Ambassador Dell Higgie of New Zealand, 20 Oct. 2014, http://www.reachingcriticalwill.org/images/documents/Disarmament-fora/1com/1com14/statements/20Oct_NewZealand.pdf.

23 Jeffrey Eberhardt, Speech on behalf of the U.S. Delegation at the UN General Assembly First Committee, New York, October 18, 2013.

24 NPT/CONF.1995/32 (Part 1), Annex, Resolution on the Middle East, see: http://www.un.org/disarmament/WMD/Nuclear/1995-NPT/pdf/Resolution_MiddleEast.pdf.

25 NPT/CONF.2010/50 (Vol. 1), see: http://www.un.org/ga/search/view_doc.asp?symbol=NPT/CONF.2010/50%20%28VOL.1%29.

26 Quoted by Ray Acheson and Beatrice Fihn, Preventing Collapse: The NPT and a Ban on Nuclear Weapons, Reaching Critical Will, October 2013, p.8.

27 See for the Austrian Pledge: http://www.bmeia.gv.at/fileadmin/user_upload/Zentrale/Aussenpolitik/Abruestung/HINW14/HINW14_Austrian_Pledge.pdf.

28 Until now: 19 March 2015.

29 Ray Acheson and Beatrice Fihn, *ibid.*.

30 The latter happened before the NPT Extension Conference in 1995. The same is already happening now: see for instance 'Because of U.S. Nuclear Umbrella, Japan not to Support Austrian

document Seeking Atomic Weapons Ban', in: The Japan Times, 13 March 2015; 'US Attempts to Bully Allies into Inaction', ICAN website, 18 March 2015, see: <http://www.icanw.org/campaign-news/us-attempts-to-bully-allies-into-inaction/>.

31 For an analysis of the current policies of the EU member states, which greatly overlaps with NATO, see: Jenny Nielsen and Marianne Hanson, 'The European Union and the Humanitarian Initiative in the 2015 Non-Proliferation Treaty Review Cycle', in: Non-Proliferation Papers, no. 41, EU Non-Proliferation Consortium, Brussels, December 2014, p.19.

32 Jenny Nielsen and Marianne Hanson, *ibid.*, p.10.

33 Ward Wilson, Five myths About Nuclear Weapons, Houghton Mifflin Harcourt, 2013; Ken Berry et al, Delegitimizing Nuclear Weapons. Examining the Validity of Nuclear Deterrence, CNS, Monterey, 2010, p.71.

34 Paul Nitze, 'Replace the Nuclear Umbrella', in: International Herald Tribune, 19 January 1994.

35 Eric Schlosser, Command and Control, Penguin, 2013.

36 Nuclear Weapons: Ending a Threat to Humanity, ICRC, Statement of 18 February 2015, see: <https://www.icrc.org/en/document/nuclear-weapons-ending-threat-humanity>.

37 John Mecklin, 'Disarm and Modernize', in: Foreign Policy, 24 March 2015, see: http://foreignpolicy.com/2015/03/24/disarm-and-modernize-nuclear-weapons-warheads/?utm_content=buffer223c2&utm_medium=social&utm_source=twitter.com&utm_campaign=buffer.

38 Working paper submitted by Ireland on behalf of the New Agenda Coalition on 2 April 2014, 2014 Prepcom, NPT/CONF.2015/PC.III/WP.18, p.7.

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The Deep Cuts project is a research and consultancy project, jointly conducted by the Institute for Peace Research and Security Policy at the University of Hamburg, the Arms Control Association, and the Institute of World Economy and International Relations of the Russian Academy of Sciences. The Deep Cuts Commission is seeking to devise concepts on how to overcome current challenges to deep nuclear reductions. Through means of re-

alistic analyses and specific recommendations, the Commission strives to translate the already existing political commitments to further nuclear reductions into concrete and feasible action. Deep Cuts Working Papers do not necessarily reflect the opinion of individual Commissioners or Deep Cuts project partners.

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