

An indictment of non-compliance:

States Parties to the TPNW accuse
nuclear-weapon states of legal breach

By Cesar Jaramillo



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Author: Cesar Jaramillo

Editor: Wendy Stocker

Designer: Tasneem Jamal

Project Ploughshares

140 Westmount Road North

Waterloo, Ontario N2L 3G6 Canada

519-888-6541

plough@ploughshares.ca

Don't look now, but 69 states – the total membership of the Treaty on the Prohibition of Nuclear Weapons (TPNW) and all parties to the Nuclear Non-Proliferation Treaty (NPT) – have just gone on record to declare that the United States, the Russian Federation, China, France, and the United Kingdom are in breach of their legal obligations under the NPT. This extraordinary consensus was articulated in the [declaration](#)¹ of the Second Meeting of States Parties to the TPNW, held at the United Nations in New York City from November 27 to December 1 of this year.

The NPT's Article VI outlines obligations for nuclear-weapon states (NWS) to pursue disarmament in good faith. Yet, according to [Article 24](#) of the declaration, the behaviour of NWS “unquestionably” represents “a failure to meet their legally-binding obligations under Article VI of the NPT.” It goes on to declare that in the period since the First Meeting of States Parties to the TPNW, “none of the Nuclear-Weapon States have made progress in accordance with Article VI of the NPT and in their unequivocal undertaking to accomplish the elimination of their nuclear weapons.” Unfulfilled undertakings during NPT Review Conferences compound the gravity of this accusation.

In effect, Article 24 serves as a groundbreaking indictment of NWS actions as a material breach of their obligations and marks a significant step toward holding NWS accountable for their commitments to disarm. The unity among accusing parties underscores the seriousness of the allegations and the shared determination to demand concrete and demonstrable action toward nuclear abolition.

That so many states came together to issue such a formal rebuke and expression of shared dissatisfaction in the official outcome document of a UN conference is anything but routine. The implications of the declaration are profound, potentially reshaping discourse on nuclear abolition and prompting a reassessment of how best to respond to instances of non-compliance with the NPT.

The formal and collective indictment during the second meeting of States Parties to the TPNW underscores a newfound willingness among states to collectively challenge and hold NWS accountable for non-compliance. Moreover, it sets a precedent for a more assertive and unified stand in addressing the critical issue of global nuclear disarmament.

¹ CRP.4/Rev.1 was adopted without change but the UN Office for Disarmament Affairs had not posted the final version of the political declaration at the time of this writing.

Evolution in language and tone

It is not hard to see an evolution in language and tone when comparing references to NPT States Parties in the outcome documents of the first and second meetings of TPNW states parties. We can see a significant shift in how the international community addresses concerns about the slow pace of nuclear disarmament, indicating not only deepening dissatisfaction but a new stand that relies less on diplomatic niceties and more on a direct and forceful approach.

The outcome document from the First Meeting of States Parties to the TPNW (the [Vienna Declaration](#)), while expressing concern about potential threats to the NPT, employed relatively restrained language. It [urged](#) all NPT States Parties to “reinvigorate their efforts to fully implement the obligation of article VI” (para 12), emphasizing a renewed commitment to the NPT framework and the implementation of actions and commitments agreed upon during NPT review conferences.

As noted above, the tone of Article 24 of the declaration of the second Meeting of States Parties is qualitatively different, focusing on the lack of progress made by NWS. Going beyond a call for renewed efforts, it squarely accuses these states of failing to meet their legally binding obligations. The language is unambiguous, stating that “enhancements of nuclear arsenals, active pursuit of quantitative expansions and even reduced transparency” by nuclear-weapon states represent a clear violation of their legal commitments. This pointed language not only acknowledges the lack of progress but confronts it head-on, describing the actions of nuclear-weapon states as a failure to engage in serious and good-faith negotiations.

The contrast in attitude to nuclear-armed NPT States Parties between the first and second meetings of States Parties to the TPNW reflects notable progress from diplomatic pleas for renewed commitment to a forceful and direct indictment of their failures and violations.

A frontal challenge to nuclear deterrence

[Article 17](#) of the declaration goes further. It delivers an explicit critique and outright rejection of the doctrine of nuclear deterrence: “Far from preserving peace and security, nuclear weapons are used as instruments of policy, linked to coercion, intimidation and heightening of tensions.” This sharp condemnation reflects a departure from conventional diplomatic language, highlighting a commitment to truthfully address the implications of nuclear weapons.

The declaration also scrutinizes a renewed advocacy for nuclear deterrence that sees it as a legitimate security doctrine. Article 17 contends that such efforts not only give “false credence to the value of nuclear weapons for national security” but also pose a significant danger by “increas[ing] the risk of horizontal and vertical nuclear proliferation.” This assertion challenges the conventional narrative in which nuclear deterrence is a stabilizing force, underscoring the potential destabilizing consequences.

Moreover, [Article 19](#) emphasizes, “The perpetuation and implementation of nuclear deterrence in military and security concepts, doctrines and policies not only erodes and contradicts non-proliferation but also obstructs progress towards nuclear disarmament.” This

critical assessment challenges established doctrines and paves the way for a broader and more nuanced discussion on the role of nuclear weapons in global security.

By confronting established doctrines, the declaration sets the stage for a transformative dialogue that extends beyond traditional diplomatic discourse. It invites a reassessment of longstanding assumptions about the efficacy and consequences of nuclear deterrence, pushing for a more comprehensive understanding of the complex dynamics surrounding the use and possession of nuclear weapons. In doing so, it challenges the international community to confront uncomfortable truths and consider alternative paths toward genuine global security and stability.

Implications for nuclear disarmament

The effectiveness of international treaties often hinges on achieving a delicate balance between establishing clear norms and addressing instances of non-compliance. In many international agreements, the absence of robust mechanisms to determine non-compliance and tools to enforce compliance poses challenges, which become more pronounced when there is no concrete framework to hold states accountable for treaty obligations.

When mechanisms to determine non-compliance are absent, the official position of fellow states parties becomes paramount. A united stand assumed by a critical mass of states can significantly influence the way in which breaches are handled. Despite the obstinate rejection of the TPNW by NWS, the power of TPNW States Parties, which, as noted, are also party to the NPT, lies in their collective ability to not only condemn NWS but shape international opinion and mobilize support for remedial actions.

Once united, states could be encouraged to explore alternative avenues to address non-compliance, including multilateral forums, diplomatic negotiations, or even political and economic sanctions. A united stand increases the likelihood of creating tangible consequences for non-compliance, reinforcing the normative framework established by the treaty.

As established by the [Vienna Convention on the Law of Treaties](#) (VCLT), for instance, such a coordinated indictment could trigger certain mechanisms to address non-compliance. Actions of nuclear-weapon states that are considered material breaches of the NPT could trigger consequences under VCLT provisions. Articles [60](#) and [62](#) of the VCLT allow parties to invoke a material breach as grounds for suspending or terminating their own obligations under the treaty.

The effects of this development could extend beyond the TPNW meeting, prompting pointed evaluations of the NPT's effectiveness and discussions on the need for stronger mechanisms within its framework. It could also stimulate broader conversations about the future of global nuclear governance, influencing diplomatic dynamics and shaping the agenda of future arms control and disarmament initiatives.

Above all, this unprecedented development raises critical questions about the effectiveness of existing international frameworks, particularly the NPT, as the primary international forums for advancing nuclear disarmament.

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More than rhetoric – The stark divide between the TPNW and the NPT

The multilateral nuclear disarmament landscape is increasingly marked by a clear divide between TPNW supporters and the NWS with their allies; the latter includes members of the North Atlantic Treaty Organization (NATO). The reluctance of the second group to embrace the TPNW has become a defining characteristic of the current geopolitical narrative, setting the stage for a significant divergence in approaches to nuclear non-proliferation and disarmament. And even though the indictment in the TPNW declaration was directed specifically at NWS, those in nuclear alliances should take note of the widespread discontent with the nuclear deterrence policies that they, too, endorse and support.

Meetings of States Parties to the TPNW are a refreshing contrast to those of the NPT, in which NWS and their allies regularly dilute successive iterations of the outcome document – if one is forthcoming at all. Such a dynamic has allowed the global security architecture to remain deeply rooted in the possession of nuclear weapons.

Not surprisingly, the TPNW outcome declaration expresses concern about the failures of the NPT review processes and the fact, as stated in [Article 24](#), that “two consecutive review processes of the NPT have been unable to agree on necessary urgent measures to make credible progress on nuclear disarmament or ensure the implementation of a series of agreed measures.” The reference is to Review Conferences in 2015 and 2022, neither of which was able to produce a consensus document or a plan of action, much less make credible progress on nuclear disarmament.

Even though TPNW States Parties continue to recognize the NPT as “the cornerstone of the nuclear disarmament and non-proliferation regime” ([Article 23](#)) and recognize the complementarity between the two treaties, their discontent with the pace of progress is clear. Evidently, the question is not just whether the world is a better place with the NPT than without it – a common refrain of NWS – but whether this treaty can deliver on the promise of nuclear abolition.

The TPNW embodies a collective determination to challenge the existing nuclear order. States Parties are united in their commitment to a clear and unambiguous objective: the prohibition and elimination of nuclear weapons. Moreover, the TPNW’s solid humanitarian foundation underscores a commitment to address the impacts of the use of nuclear weapons on affected communities and environments.

By prioritizing the well-being of those directly affected, the TPNW aims to shift the discourse from strategic and geopolitical considerations to a more empathetic and community-centric approach. An emphasis on the human and environmental toll broadens the scope of nuclear disarmament discussions and encourages the international community both to consider the far-reaching consequences of nuclear activities and to advocate for comprehensive measures to rectify any damage caused by such activities.

The momentum behind the TPNW is driven not by tactical considerations or strategic manoeuvring but by a shared conviction that the pursuit of nuclear disarmament is imperative for the collective survival and well-being of humanity.

Advocates of the TPNW argue that the treaty's strength lies in its unequivocal stand against the possession and use of nuclear weapons. While the NPT has been subjected to the strategic interests of NWS, the TPNW is viewed as a bold step toward a world free from the spectre of nuclear devastation. The commitment of TPNW supporters to disarmament is not merely rhetorical; it is a principled stand against the perpetuation of a status quo that features the possession of nuclear arsenals.

A call to action

States, international organizations, and civil society must now grapple with the implications of the indictment by TPNW States Parties. Surely, the scathing critique, a stark reminder that the pursuit of global security demands a real and demonstrable commitment to the principles enshrined in the NPT, must command the world's attention. The world now has the opportunity to reimagine the path to nuclear disarmament, strengthen the international legal architecture, and foster a more transparent and accountable approach to the elimination of nuclear weapons.

This historic moment is a call to action. It demands that nuclear-armed states reflect on their roles as nuclear powers in breach of a major treaty, pushing them to demonstrate tangible progress in disarmament efforts. The NPT regime is at a crossroads, in need of a critical examination of its capacity to enforce compliance.

The global community must work collaboratively to fortify the existing international legal framework related to nuclear disarmament, including the NPT; ways to enhance NPT enforcement mechanisms must be found. States should also consider the development of new legal instruments that address contemporary challenges and ensure robust accountability for non-compliance. Legal experts, policymakers, and diplomats must engage in comprehensive discussions to shape a more effective legal architecture, update treaty provisions, strengthen compliance mechanisms, and adapt to evolving geopolitical realities.

Now is the time to engage in visionary thinking to develop innovative approaches that transcend historical impediments and pave the way for meaningful progress. It is imperative for the international community to respond with decisive and concerted action. The shared responsibility to secure a world without nuclear weapons rests on the collaborative endeavours of states, international organizations, and civil society to build on this moment to make demonstrable progress toward complete nuclear abolition.



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