

SHARED, YET DIFFERENT RESPONSIBILITIES IN NUCLEAR DISARMAMENT

by *Karla Mae G. Pabeliña*

[States' roles and responsibilities in nuclear disarmament](#) are nuanced by their possession or non-possession of nuclear weapons as well as by their commitments under the Treaty on the Non-Proliferation of Nuclear Weapons (NPT) and other related regimes. Generally, States are categorized as either nuclear-weapon states (NWS)¹, nuclear-weapon-possessing states (NWPS)² or non-nuclear-weapon states (NNWS), including those which rely on extended deterrence (commonly referred to as nuclear umbrella states). This categorization can be further expanded in relation to the NWS' capacity as permanent members of the UN Security Council and their role as providers of security guarantees; the position of the NWPS within the global and regional security architecture; the reliance of some NNWS to the extended deterrence provided by their nuclear patron, and the inclusion of some NNWS in nuclear-weapon-free zones.

The roles and responsibilities of States in the disarmament process have been debated following the series of initiatives by the NNWS to move multilateral disarmament negotiations forward, albeit without NWS' participation. The Treaty on the Prohibition of Nuclear Weapons (TPNW), adopted by the United Nations General Assembly (UNGA) on 7 July 2017 by a vote of 122 to one against (The Netherlands) and one abstention (Singapore), manifests the resolve of the NNWS to achieve progress in nuclear disarmament following the absence of concrete outcomes in multilateral nuclear disarmament forums. While celebrated by many as a beacon of hope in the face of the retracted movements of the NWS from their disarmament commitments, the TPNW has been criticized as promoting further polarization between the 'haves' and those who rely on nuclear deterrence for their security, and the 'have-nots' who are deeply frustrated with the status quo.

This paper seeks to provide an overview of the discourse on the differences and commonalities between the roles and responsibilities of States in nuclear disarmament as indicated in Article VI of the NPT.

The Long-held Goal of Nuclear Disarmament

Since the tragic demonstration of the destructive capacity of nuclear weapons, the UN has sought its comprehensive elimination. The first resolution of the UNGA, adopted on 24 January 1946, established a commission to deal with the problem raised by the discovery of atomic energy and "the elimination from national armament of atomic weapons and of all other major weapons adaptable to mass destruction".

The foundation of the NPT, considered as the cornerstone of the nuclear nonproliferation regime, is viewed as a bargain struck between the NWS and the NNWS with the latter pledging not to acquire or develop nuclear weapons and accept the International Atomic Energy Agency (IAEA) safeguards and the former committing to phase out and eventually eliminate nuclear weapons.

Article VI obligates all the NPT State Parties 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 international control." The interpretation of Article VI and the

agreed outcomes of the review conferences – particularly 1995³, 2000⁴ and 2010⁵ -- provide for the measures State Parties need to adhere to. Yet, decades since NPT's entry into force and after numerous review cycles, nuclear disarmament remains a far-off aspiration.

Shared Responsibilities and Preconditions?

The specific roles and responsibilities of States in relation to Article VI of the NPT have been a focus of contention. Scott Sagan, [in his article published in 2009](#), talked about the “shared responsibility” of the nuclear-armed states and non-nuclear-weapon states in disarmament. This shared responsibility entails coordinated global effort between the NWS and NNWS in “designing a future nuclear-fuel-cycle regime, rethinking extended deterrence, and addressing nuclear breakout dangers while simultaneously contributing to the eventual elimination of nuclear weapons”. Sagan emphasized that the NWS and NNWS must work together to have a comprehensive and more equitable implementation of the NPT based on their shared responsibilities.

While agreeing to the notion of shared responsibility, Sri Lankan Ambassador Jayantha Dhanapala, President of the 1995 NPT Review and Extension Conference, asserted that shared responsibility does not mean equal responsibility. As the NWS and their allies have more capabilities than the NNWS in the implementation of their respective commitments, they then have the main responsibility for achieving a nuclear-weapons-free world. Thus instead of the NWS passing the buck to the NNWS for not doing enough to make the security conditions favorable for disarmament to happen, Ambassador Dhanapala argued that [“if there were no weapons, there would be nothing to proliferate”](#). For their part, the NNWS have been fulfilling their disarmament role through regional treaty arrangements establishing nuclear-weapon-free zones, collective measures in sponsoring and adopting resolutions in the UNGA, and contributions in other multilateral fora.

The way forward is also hounded by the debate over the so-called prerequisites that need to be met for disarmament to be possible. This quid pro quo scenario has resulted in a “preconditions race” with one bloc of countries demanding particular steps and prerequisites to move forward in disarmament.⁶ Former High Representative for Disarmament Ms. Angela Kane argued that both goals of nonproliferation and disarmament are mutually reinforcing and must be pursued vigorously together. In her remarks during the [Brainstorming Workshop for the Dialogue on Nuclear Disarmament held in 2013](#), she stated that “nuclear disarmament will never be achieved through a process of mutual hostage taking. Continuing international concerns pertaining to other proliferation challenges should not detract from the need to advance disarmament. Rather, such concerns only underscore the need for strengthening the rule of law in this field”.

“As parties to the NPT, the NNWS have their share of responsibilities in the disarmament process. The engagement of the NNWS is critical in sustaining political pressure to make progress on the issue. The political pressure from the international diplomatic community provides the backbone of political will necessary to reach the common objective of attaining a world without nuclear weapons.”

In his remarks during the [2008 Global Summit for a Nuclear Weapon-Free World](#), former High Representative for Disarmament Affairs Mr. Sergio Duarte argued that the states that possess nuclear weapons “bear a particularly heavy burden of demonstrating to the world what they are doing to fulfill the commitments they have made in the NPT”. Assessing the steps made by the NWS within the measure of sufficiency, Mr. Duarte noted that there is a big difference between action that is consistent with the treaty and one that fulfills an obligation.⁷

High Representative for Disarmament Ms. Izumi Nakamitsu argued that nuclear-armed states bear the largest responsibility for making progress on nuclear disarmament. Equally they will be the primary beneficiaries of disarmament. Initiatives such as reduction of arsenals, lowering alert levels and mitigating risks of incidents can build confidence.

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international diplomatic community provides the backbone of political will necessary to reach the common objective of attaining a world without nuclear weapons. Thus, frustrated by the lack of progress in the disarmament fora⁸ and empowered by Article 96, Paragraph 1 of the UN Charter, the UN General Assembly (UNGA) requested for an advisory opinion from the International Court of Justice (ICJ) on the question of whether the threat or use of nuclear weapons in any circumstance is permitted under international law. Although the ICJ observed that [“in view of the current state of international law and of the elements of fact at its disposal, \[it\] cannot conclude definitively 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”](#), it nonetheless stressed the obligation under Article VI of the NPT to conclude negotiations leading to nuclear disarmament in all its aspects under strict and effective international control. Against this backdrop and building upon heightened awareness of the humanitarian consequences of nuclear weapon use, the UNGA decided to convene in 2017 a UN conference to negotiate a legally binding instrument to prohibit nuclear weapons, leading towards their total elimination. All the nine NWS including most of the umbrella states boycotted the TPNW negotiations.

Conclusion

The experience with the TPNW begs then the question whether the exercise of some NNWS' roles and responsibilities credibly constructs an effective disarmament measure as indicated under Article VI. Given that the NWS have a greater responsibility in relation to disarmament, does that mean that their participation is necessary for the framing of the legal norms on disarmament? Should the NNWS have waited until all the NWS, NWPS and umbrella states are on board before they negotiated a TPNW? Will the conditions be ever conducive for the NWS, NWPS and umbrella states to negotiate a legally binding treaty on disarmament? Though Article 11 of the UN Charter explicitly gives the General Assembly the authority to consider the principles governing disarmament and regulation of arms, does the UNGA have the credibility (vis-à-vis the Conference on Disarmament) that would ensure success in norm-formation?

“In any case, there is a need for further convergence on the differing roles and responsibilities of States in the process of disarmament. This would include greater transparency from the NWS with respect to the role of nuclear weapons in their security doctrines, the operational readiness and alert status of nuclear weapons, as well as the budget allocations and investments for modernization of nuclear infrastructure and arsenal.”

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Disarmament should be viewed as a win-win outcome for all. High Representative for Disarmament Ms. Izumi Nakamitsu emphasized that [“disarmament measures play a positive role in responding to breaches of the peace and in preventing armed conflict from subsequently re-emerging.”](#)

The Philippines actively participated in the negotiations, and was among the first States to sign the TPNW. Foreign Affairs Secretary Alan Peter Cayetano highlighted that our commitment to the Treaty affirms the Philippines' unequivocal commitment to [“put nuclear weapons firmly on the path of extinction, a cause of the highest priority embodied in our country's constitution”](#). 

Endnotes

¹ The NWS 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), which have manufactured and detonated a nuclear explosive prior to 1 January 1967.

² The NWPS includes the nuclear-weapon States and non-NPT possessor States (the Democratic People's Republic of Korea, India, Israel and Pakistan).

³ Decision 2 of the Principles and Objectives for Nuclear Non-Proliferation and Disarmament on the 1995 NPT Review and Extension Conference outlines the set of measures important in the full realization of Article VI. These include the completion by the Conference on Disarmament of the negotiations on a universal and internationally and effectively verifiable CTBT no longer than 1996, banning the production of fissile material for nuclear weapons or other nuclear explosive devices, and for NWS to pursue systematic and progressive efforts to reduce nuclear weapons globally.

⁴ The 2000 NPT Review Conference adopted the 13 practical steps in Nonproliferation and Disarmament. These measures include the call for the early entry into force of the CTBT, a moratorium on nuclear weapon test explosions, negotiations on an effectively verifiable treaty banning the production of fissile material for nuclear weapons, application of the principle of irreversibility to nuclear disarmament, among others.

⁵ A 64-point Action Plan has been adopted by consensus at the 2010 NPT Review Conference. The Action Plan covers 22 action items on nuclear disarmament.

⁶ The NWS argue that the NNWS should take steps to create an appropriate climate for nuclear disarmament to happen. These include punishing violators of currently existing nonproliferation agreements, reducing the risks of nuclear weapons breakout, promoting increased verification and transparency to reduce incentives for NPT withdrawal and disarmament reversal, among others.

⁷ Sufficiency implies long-term sustainability and significant institutional support and budget, according to Mr. Duarte. This would entail the creation of government organizations with specific legislative mandates, budgets, timetables, benchmarks, and public accountability for achieving disarmament goals. Sufficiency requires investing on domestic institutional means for implementing international commitments to disarmament.

⁸ For instance, the Conference of Disarmament regarded as the single multilateral disarmament negotiation forum, has been on stalemate for the past 21 years. For the first time since 1999, the UN Disarmament Commission adopted consensus recommendations for transmittal to the UNGA only last April 2017.

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