The Nuclear Non-Proliferation Treaty – What Happened to Nuclear Disarmament?

By Dave Webb

At the start of 2016 nine states - the United States, Russia, the United Kingdom, France, China, India, Pakistan, Israel and North Korea - possessed approximately 4,120 operationally deployed nuclear weapons. If all nuclear warheads are counted, these states together possess a total of approximately 15,395 nuclear weapons, 93% of which are held by Russia and the US.

<table>
<thead>
<tr>
<th>Country</th>
<th>Year of first nuclear test</th>
<th>Deployed warheads</th>
<th>Other warheads</th>
<th>Total Inventory</th>
</tr>
</thead>
<tbody>
<tr>
<td>United States</td>
<td>1945</td>
<td>1,930</td>
<td>5,070</td>
<td>7,000</td>
</tr>
<tr>
<td>Russia</td>
<td>1949</td>
<td>1,790</td>
<td>5,500</td>
<td>7,290</td>
</tr>
<tr>
<td>France</td>
<td>1960</td>
<td>280</td>
<td>20</td>
<td>300</td>
</tr>
<tr>
<td>China</td>
<td>1964</td>
<td>-</td>
<td>260</td>
<td>260</td>
</tr>
<tr>
<td>United Kingdom</td>
<td>1952</td>
<td>120</td>
<td>95</td>
<td>215</td>
</tr>
<tr>
<td>Israel</td>
<td>-</td>
<td>-</td>
<td>80</td>
<td>80</td>
</tr>
<tr>
<td>Pakistan</td>
<td>1998</td>
<td>-</td>
<td>110-130</td>
<td>110-130</td>
</tr>
<tr>
<td>India</td>
<td>1974</td>
<td>-</td>
<td>90-110</td>
<td>90-110</td>
</tr>
<tr>
<td>North Korea</td>
<td>2006</td>
<td>-</td>
<td>10</td>
<td>10</td>
</tr>
<tr>
<td><strong>Total:</strong></td>
<td>4,120</td>
<td><strong>11,275</strong></td>
<td></td>
<td><strong>15,395</strong></td>
</tr>
</tbody>
</table>

Although this is a large decrease from the 69,000 that existed in 1985 at the height of the Cold War, it still represents over 400,000 times the combined power of the bombs dropped on Hiroshima and Nagasaki and is easily enough to effectively lay waste to our planet. With some 4,000 nuclear devices on ‘hair-trigger alert’, ready to be fired at very short notice, the planet continues to totter on the edge of a nuclear precipice.
You might think that of all the weapons that exist, those that threaten our very existence would be the easiest to outlaw and dismantle but this is far from the case. Instead, some 71 years after the world witnessed the destruction of those two cities in Japan by two small bombs (by today’s measure), killing over 250,000 citizens, all of the nuclear weapons states are set to renew their arsenals at shocking levels of expenditure.

The UK government recently voted to spend over £200 billion on replacing its Trident nuclear submarine system and the US has plans for spending over $1 trillion on updating and upgrading its nuclear arsenal. Russia and China are responding by increasing their nuclear capabilities and India and Pakistan are following in line.
Nagasaki, 9 August 1945 - 32,000 people immediately killed, 80,000 more dead by the end of 1945 from burns, radiation and related disease. 112,000 KILLED
Percentage of population killed: 57.44%

Secrecy surrounds the activities of Israel but they too will be looking to update their weapons and North Korea, despite being one of the poorest nations on earth, has demonstrated its intentions by accelerating its nuclear test programme in recent few years.

Despite the urgent need for nuclear disarmament and regardless of the demands of the people of the world, governments have failed to enter into any really serious talks or agreements on nuclear disarmament ever since the failure of plans to pass all US nuclear technology and responsibility to the collective international community through the newly formed United Nations Atomic Energy Commission in 1946. The US then went on to pursue its own nuclear ambitions. Recognising the awesome power of nuclear weapons, other states also developed the technology and the Soviet Union, the UK, France and China soon joined the nuclear club and together they have become known as the P5 nuclear states. Once established, the P5 have only been willing to talk about nuclear arms control rather than disarmament, thereby ensuring that the possession of these horrific and shameful instruments of genocide remains in their hands alone.

The arms race that followed World War 2 was a competition for supremacy in nuclear weapons between the United States and Soviet Union during the Cold War.
Nuclear weapons changed the international scene – there was a continual struggle between maintaining a balance of power and preventing the possible spread of nuclear weapons to other states. Many states who were pursuing nuclear weapons programmes cancelled them because of cost and ethical considerations and so a tension between the nuclear haves and have-nots also developed.

It is generally considered that efforts to achieve global nuclear disarmament would need to be negotiated in the United Nations. Conventions to ban the development and possession (and thereby use) of biological and chemical weapons were formulated and agreed at the UN in 1975 and 1997 respectively. However, no such ban on nuclear weapons has so far been achieved - despite the first resolution of the 1946 UN General Assembly calling for:

"the elimination from national armaments of atomic weapons and of all other major weapons adaptable to mass destruction."

Let us consider the efforts that have been made to realise this resolution.

**Nuclear Weapons and International Law**

At the end of the Cold War, the UN began to more seriously consider the feasibility of a Nuclear Weapons Convention. In December 1994, the UN General Assembly adopted a Resolution that
requested the International Court of Justice (ICJ) to render its opinion on whether the threat or use of nuclear weapons in any circumstance is permitted under international law. In July 1996, the ICJ ruled unanimously that:

“there exists a legal obligation to pursue in good faith and bring to a conclusion negotiations leading to nuclear disarmament in all its respects.”

“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”

“states must never make civilians the object of attack and must consequently never use weapons that are incapable of distinguishing between civilian and military targets”

The basis of international humanitarian law is that parties to any conflict should seek to distinguish between civilian and military targets and this is repeated in the 1949 Geneva Convention. The Geneva Convention Protocol of 1977 prohibits attacks on civilians and methods of warfare which may cause widespread, long-term and severe damage to the natural environment (Article 35). The impossibility of distinguishing between civilian and military targets and the obvious fact that the use of nuclear weapons would result in a massive number of casualties and devastation over a wide area, clearly renders the use or threat of nuclear weapons illegal.

Nuclear weapons also breach all of the following declarations and conventions:

- **Declaration of St. Petersburg**, 1868, because unnecessary suffering would be caused and there would be no avoidance or minimising of incidental loss of civilian life;
- **Hague Convention**, 1907, because unnecessary suffering would be caused and there would be no guarantee of the inviolability of neutral nations;
- **Universal Declaration of Human Rights**, 1948, because long-lasting radioactive contamination would interfere with innocent people's right to life and health;
- **Geneva Conventions**, 1949, because protection of the wounded, sick, the infirm, expectant mothers, civilian hospitals and health workers would not be ensured;
- **The Protocols Additional to the Geneva Conventions**, 1977, because there would be massive incidental losses of civilian lives and widespread, long-term and severe damage to the environment.

So, the use or threatened use of nuclear weapons is illegal under international law. However, there have been no serious practical steps taken to completely rid the world of these weapons of mass destruction.

**The Nuclear Non-Proliferation Treaty (NPT)**

The international agreement that comes closest to a nuclear disarmament treaty is the Nuclear Non Proliferation Treaty (NPT). Its origins began in 1961 when Ireland put forward a resolution to the General Assembly on the “Prevention of the Wider Dissemination of Nuclear Weapons”. It called for measures to prevent the spread of nuclear weapon technology and required all countries to desist from acquiring or transferring nuclear weapons technology.

Following this, in 1965, the UN General Assembly Resolution 2028 laid out the governing principles of the commitment to maintain an appropriate balance between the obligations undertaken by the Nuclear Weapons States (NWS) and the Non Nuclear Weapons States (NNWS) and that the Treaty should be a step toward nuclear disarmament, as well as toward general and complete disarmament.
The Treaty opened for signature on July 1, 1968 and it came into force in 1970. To date there are 190 states who are party to the treaty. Only five are not – India, Pakistan, Israel, North Korea (who was but withdrew in 1994 and has carried out a series of nuclear tests ever since) and Taiwan.

The Treaty obliges the NWS to work ‘in good faith’ towards nuclear disarmament while the NNWS promise not to develop them.

Ambassador Jayantha Dhanapala of Sri Lanka was UN Under-Secretary-General for Disarmament Affairs 1998-2003 and president of the 1995 NPT Review and Extension Conference.
The Treaty was extended indefinitely in 1995 and requires that a Review Conference to be held every five years, the most recent being held in 2015. In the time between reviews, three Preparatory Committee (PrepCom) meetings are held. The purpose of the PrepCom is to assess the progress made (or not) of each article of the Treaty and to facilitate discussion with a view to making recommendations to the Review Conference.

The basis of the NPT is its three pillars:

- 1. Non Proliferation
- 2. Disarmament
- 3. Peaceful Use of Nuclear Energy

Each of these has associated problems that illustrate how the nuclear weapon states are not taking the Treaty seriously.

U.S. Ambassador Llewellyn E. Thompson, left, signs the treaty in Moscow with Soviet Foreign Minister Andrei A. Gromyko.

**NPT First Pillar: Non-Proliferation**

At the time the NPT was established only the P5 had nuclear weapons and under Article 1 of the treaty they have agreed not to transfer "nuclear weapons or other nuclear explosive devices" and "not in any way to assist, encourage, or induce" a non-nuclear weapons state to acquire them.

Similarly, under Article 2, the non-nuclear weapons states undertake not to receive or acquire nuclear weapons or the control of them directly, or indirectly.
However, under its nuclear sharing policy, NATO has stationed over 100 US B61 nuclear bombs in Belgium, Germany, Italy, the Netherlands and Turkey - a clear violation of both of these Articles.

The US insists that it controls them and that no transfer of nuclear bombs or control over them is intended except in a war situation when, they say, the NPT would no longer apply. However, many military personnel including the pilots from the host countries, practice handling and delivering the US nuclear bombs, and many of their warplanes have been adapted to deliver them. This must have involved the transfer of some technical nuclear weapons information, meaning that preparations for waging a nuclear war are already being carried out by ‘non-nuclear’ weapon states.

One way forward might be to create an ad hoc committee through the General Assembly rather than the CD. The General Assembly is open to all states, making it possible to build pressure on those who might oppose an FMCT. Furthermore, the General Assembly can vote on an issue rather than struggle for a consensus.

**Second Pillar: Disarmament**

Article VI requires that all states party to the Treaty
“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.”

Every PrepCom and every Review Conference have received submissions from the NNWS indicating their frustration with the nuclear weapons holders. They are particularly angry that no progress is being made with nuclear disarmament talks. Although they are keeping their part of the NPT bargain the NWS have not demonstrated their willingness to pursue nuclear disarmament negotiations “in good faith”.

For a while the outcome of the NPT Review Conference in 2000 did look promising. An initiative mainly spearheaded by the Non-Aligned Countries led to the adoption of 13 steps to nuclear disarmament.

Mr. Abdallah Baali, Permanent Representative of Algeria to the United Nations served as President of the 2000 NPT Review Conference

The 13 steps were:

- An unequivocal undertaking to accomplish the total elimination of nuclear arsenals.
- Early entry into force of the Comprehensive Test Ban Treaty (CTBT)
- Moratorium on nuclear-weapon-test explosions pending CTBT
- CD negotiations on treaty banning the production of fissile material for nuclear weapons within 5 years
- CD nuclear disarmament body
- Irreversibility to disarmament, arms control and reduction
- Entry into force of START II and the inclusion of START III while strengthening the ABMT
- Completion and Implementation of the US/Russia/IAEA Trilateral Initiative
- Steps by all NWS: efforts to reduce their strategic nuclear arsenals unilaterally; increased transparency; reduction of non-strategic weapons; measures to reduce operational status of nuclear weapons; diminishing role for nuclear weapons in security policies; engagement of all NWS in the process of elimination of nuclear weapons
- All NWS to place fissile material under international verification
- Reaffirmation of ultimate objective of general and complete disarmament under effective international control
- Regular reporting within the framework of the strengthened review process (accountability)
- Further development of the verification capabilities to provide assurance of compliance with nuclear disarmament agreements

However, no progress at all was made on any of these points and at the 2005 Review Conference the US and France would not allow specific mention of the 13 steps and Egypt therefore blocked the adoption of an Agenda and the Conference ended badly with no agreed document.

President of the 2005 NPT review conference, Sergio Duarte – said the event had accomplished “very little” amid widely diverging views

The 2010 Review Conference was not a huge improvement and eventually it replaced the 13 steps with 64 specific actions and agreements to work for a WMD free zone in the Middle East. Although the action plan did reaffirm previous
commitments it had no new powers to implement any initiatives and no progress was made.

There is also total paralysis in the CD where no new treaties have been agreed since the CTBT in 1996. In fact, except for 3 weeks in August 1998, there had been no agreement even to begin serious talks and there were deep divisions between member states (including those between India and Pakistan and the US and China).

So, things do not look good for progress at the NPT but not all nations see their security bound into nuclear weapons. Since the Hiroshima bomb was dropped by the US, Egypt, Switzerland, Australia, Spain, Sweden, Canada, Yugoslavia, Brazil, Romania, Argentina, Iraq, Algeria have all abandoned their nuclear weapons programmes.

In addition, Kazakhstan, Belarus and Ukraine have all relinquished the nuclear weapons that were left in their country following the break-up of the Soviet Union. South Africa, which had developed its nuclear weapons under apartheid, signed the NPT in 1991 and set about dismantling its nuclear weapons thereafter. By 1994 the
International Atomic Energy Agency had inspected the work and declared that the nuclear weapons programme was finished in South Africa. So, progress is possible if the political will is present.

**NPT Third Pillar: Peaceful Use of Nuclear Energy**

The treaty recognizes the inalienable right of sovereign states to use nuclear energy for peaceful purposes, but Articles 1 and 2 require parties not to transfer or receive nuclear weapons or control over such weapons or seek any assistance in their manufacture.

However, nuclear energy production also provides an infrastructure for nuclear weapons development and can be used to provide the fuel for a nuclear bomb. This has recently been illustrated by the reaction to Iran’s development of nuclear energy and the continued production of fissile materials remains a significant issue for the disarmament and arms control community. The immediate commencement and early conclusion of negotiations for a Fissile Material Cut-off Treaty (FMCT) was adopted by consensus at the UN General Assembly in 1993 and negotiations in the Conference on Disarmament (CD) has been endorsed by all parties at all NPT Review Conferences since 1995. However, the CD remains unable to establish a committee to begin those negotiations.

**Nuclear Weapons Free Zones (NWFZ)**

The Soviet Union first suggested a nuclear weapons free zone at the UN General Assembly in 1956 by proposing an area free of nuclear weapons across East and West Germany and the central and eastern European countries. This proposal was opposed by the US but several others have been made since then for regional zones where countries would not acquire, manufacture, test, or possess nuclear weapons. Currently, the following have been established:

- 1959 The Antarctic Treaty
- 1967 Outer Space Treaty
- 1967 Treaty of Tlatelolco (South America)
- 1985 South Pacific Nuclear Free Zone Treaty
- 1991 Treaty of Pelindaba (Africa)
- 1997 Treaty of Bangkok (ASEAN)
- 2000 Mongolian Free State

Efforts to establish new NFZs – especially in the Middle East and Europe – are ongoing and often arise at NPT conferences and elsewhere in the UN.

**Legal Action**

The Republic of the Marshall Islands (RMI) - the Pacific chain of islands that includes Bikini Atoll and Enewetak - demonstrated its frustration at the lack of progress at the 2014 NPT PrepCom in New York by announcing a legal action against the nuclear weapons states. These islands have been subjected to 67 nuclear tests from 1946 to 1958 - including the 15-megaton "Castle Bravo" test,
equivalent to a thousand Hiroshima blasts, detonated at Bikini around 60 years ago. Many of the islanders have been displaced from their traditional homes and even more have suffered serious health and environmental effects as a consequence of these tests. The US has also established the “Ronald Regan Ballistic Missile Defense Test Site” on Kwajalein Atoll in the Marshall Islands and uses the islands for missile target practice.

The RMI’s legal action was taken at the International Court of Justice (ICJ) and accused the NWS of failing to carry out their nuclear disarmament commitments under the NPT and customary international law. Their legal case noted that there are enough nuclear warheads in existence to destroy all life on the planet and:

"The long delay in fulfilling the obligations enshrined in article VI of the NPT constitutes a flagrant denial of human justice"

It also drew attention to the fact that the NWS are currently modernising their nuclear weapons - a clear violation of the NPT. According to Laurie Ashton, the RMI counsel:

‘A country that agrees to reduce antiquated nuclear stockpiles while spending hundreds of billions to make other categories of nuclear weapons more lethal is clearly still arms racing. The people of the world can see right through any argument that responsibility for stalled nuclear disarmament rests elsewhere.’

This legal case was particularly relevant to India, Pakistan and especially the UK. These three countries are the only nuclear weapon states that recognise the ICJ and the UK is the only one of those that has also signed the NPT. A statement from the UK Campaign for Nuclear Disarmament (CND) commented:

“The UK government’s plans to replace Trident make a mockery of its professed belief in multilateral frameworks – and now in addition to huge public opposition in the UK, it will also face an international legal challenge to expose its hypocrisy."

The lawsuits against the 9 NWS were submitted to the ICJ on April 24, 2014. We waited for several months as the ICJ considered evidence and testaments from the RMI and the defendants. Until, unfortunately on 5th October 2016 it delivered its
judgments on preliminary issues. The UK, India and Pakistan appeared before the Court, while China, the U.S., Russia, France, Israel and North Korea chose to ignore the cases.

Unfortunately the Court upheld the objection of the UK that there is not sufficient evidence of the existence of a dispute, meaning that the ICJ has no jurisdiction to hear the case on its merits. However, the 8-8 tie needed the casting vote of the President of the Court to come to that decision. The cases against India and Pakistan were also rejected for the same reason - by votes of 9-7. It is difficult to understand how eight judges could have found that no dispute with the NWS exists but they did reiterate the Court’s unanimous 1996 decision that there is an obligation to pursue negotiations for nuclear disarmament.

NGO Initiatives

Draft Nuclear Weapons Convention

In 1997 a draft Nuclear Weapons Convention was finalised and launched by the International Physicians for the Prevention of Nuclear War (IPPNW), the International Association of Lawyers Against Nuclear Arms (IALANA) and the International Network of Engineers and Scientists Against Proliferation (INESAP). This draft was submitted by Costa Rica to the United Nations as a discussion document.

An updated 2007 draft, submitted by Costa Rica and
Malaysia, was modelled on the Chemical and Biological Weapons and Anti-Personnel Landmines Conventions and would supplement existing treaties such as the NPT and the CTBT.

The detailed draft treaty includes the steps required to make nuclear weapons illegal and lead to their decommissioning. It would be breached by the testing, production, accumulation, movement and usage of nuclear weapons and would establish and International Agency to monitor compliance.

Five phases for the elimination of nuclear weapons are identified:

1. take nuclear weapons off alert,
2. remove weapons from deployment
3. remove nuclear warheads from their delivery vehicles
4. disable the warheads, removing and disfiguring the ‘pits’ and
5. place the fissile material under international control.

In the initial phases, the U.S. and Russia are required to make the deepest cuts in their nuclear arsenals.

Despite significant support from a number of states and the UN Secretary General Ban Ki-moon there has been no interest from any NWS.

**A Nuclear Weapons Ban**

Lack of progress with the draft Nuclear weapons Convention led to a change in tactics. The International Campaign for the Abolition of Nuclear weapons (ICAN) argued that the prohibition of weapons typically precedes and stimulates their elimination and therefore a straight forward ban on nuclear weapons (rather than a “step-by step” approach) would help to formalise their rejection and create a clear international legal norm against their possession.
In January 2012 ICAN released a study entitled “Towards a Treaty Banning Nuclear Weapons” which declared that 146 nations – including 4 NWS (China, India, Pakistan, and North Korea) - had declared a willingness to negotiate a new global disarmament pact. At the 2015 NPT Review Conference, the Foreign Minister of Austria delivered a statement on the humanitarian consequences of nuclear weapons on behalf of 159 NNWS.

Three International Conferences on the “Humanitarian Impact of Nuclear Weapons” were organised. The first was held in Oslo in 2013, the second in Mexico in February 2014 and the third in Vienna which, following public and international pressure was attended by US and UK government representatives. India and Pakistan had attended previous meetings, while China sent a high-ranking diplomat as an observer.

There was significant public interest and enthusiasm for these meetings and the idea of negotiating a ban on nuclear weapons, even without the participation of those who posses them. However, some argue that it does not move us closer to disarmament if none of the NWS observe the ban – and all indications are that they won’t!

However, at the meeting 128 states voted for a ban and 29 voted against with 18 abstentions. This encouraged campaigners and ambassadors to keep going.
UN Open Ended Working Group (OEWG)

In December 2012, the UN General Assembly convened an open-ended working group (OEWG) to develop proposals to take forward multilateral nuclear disarmament negotiations for the achievement and maintenance of a world without nuclear weapons. The group produced a final report in 2013.

A second OEWG was established in October 2015 to address concrete effective legal measures, legal provisions, and norms that will need to be concluded to attain and maintain a world without nuclear weapons. At its final session in Geneva on August 19th 2016, 107 nations expressed support for the convening of a conference in 2017 to negotiate a legally binding instrument to prohibit nuclear weapons, leading towards their total elimination.

Austria soon announced that it would table a resolution in the General Assembly’s First Committee that will establish a formal mandate for negotiations and

In what is being called a historic moment for nuclear disarmament, the United Nations First Committee meeting in New York City on October 27 2016 Thursday are voted on a nonbinding resolution to ban nuclear weapons.

Co-sponsored by 57 nations, the resolution, known as L.41, states: "Deeply concerned about the catastrophic humanitarian consequences of any use of nuclear
weapons," as well as "the risks related to the existence of nuclear weapons," the General Assembly "Decides to convene in 2017 a United Nations conference to negotiate a legally binding instrument to prohibit nuclear weapons, leading towards their total elimination."

Ahead of the vote, the European Parliament declared its support for the resolution and encouraged EU member states to "support the convening" and "participate substantively" in the negotiations.

Resolution L.41 was accepted by a vote of 123-38, with 16 member nations abstaining. As expected, nuclear powers including the United States, France, Canada, Israel, Russia, and the United Kingdom, as well as several of their European allies, were among the nations who voted against the ban.

A second, confirmatory vote will take place in a plenary session of the General Assembly early in December.

A legally-binding nuclear weapons ban would not include measures for elimination, leaving that to future negotiations but it would contribute to the progressive stigmatization of nuclear weapons. States supporting the ban considered it to be the most practical option for immediate action as it would not need universal support. Progress will be reviewed by a UN high-level international conference to be convened no later than 2018.
The Role of the Peace Movement

Our contribution must be to become a massive visible opposition to militarism and war – so big that it cannot be ignored. The requirement for nuclear disarmament is enshrined in international law and treaties exist to enable it but the problem remains that the nuclear weapons states ignore them. We need to ensure that they take notice and make our voice heard loud and clear so that they take action.

There is a precedent. During the Cold War, President Gorbechev was able to discuss nuclear disarmament with Ronald Reagan because he was aware of the huge peace protests in Europe (especially in West Germany) and saw that there was considerable opposition to the stationing of US nuclear weapons in Europe and the build up of international tension.

Gorbachev’s steps were guided by the nuclear disarmament movement - he initiated a unilateral Soviet nuclear testing moratorium, decided against building a Star Wars antimissile system, and split the issue of Star Wars from the INF Intermediate Nuclear Forces Treaty, leading to the 1987 agreement that removed all intermediate-range nuclear missiles from Europe.

We need to strengthen our grass roots campaigning – build up coalitions and alliances with other campaigns. Around 70,000 people joined us for the march in London in February - including Labour leader Jeremy Corbyn and First Minister of Scotland Nicola Sturgeon. The themes mentioned by speakers and demonstrators linked a number of campaigns based on the huge cost of renewing Trident during a period of so-called ‘austerity’.

Things are stirring among the young, the dispossessed, the have-nots, those who see the injustices and threats produced by rampant capitalism and militarisation. People are looking for change, for new ways of working, of ordering and organising ourselves.

The times when things look bleak are always the times when we have to work the hardest. This is one of those times – we will need all our experience, all our skills and all our energies to prevail but prevail we must.