

NUCLEAR BAN TREATY: A DIRE INSIGHT TO RENOUNCE NUCLEAR WAR?

Mahvish Malik*

***Abstract:** The illegal transfer of nuclear weapons and its potential use remains a serious trans-national risk against global peace. The 2017 Nuclear Ban Treaty (NBT) or the Treaty on the Prohibition of Nuclear Weapons (TPNW) has made a dedicated effort over creating awareness against the inhuman effects of the nuclear weapon use. However, this NBT fails to share the legal scope of the humanitarian aspect and rather dwells on the political debate that has been borrowed from existing treaties, including nuclear non-Proliferation Treaty (NPT) and the Comprehensive Test Ban Treaty (CTBT). Since the humanitarian aspect debate is currently an emerging trend, the NBT may not exclusively undermine the scope of NPT, it might be able to compliment it. The scope of NPT may, however, be seized by the proponents of NBT during the NPT Review Conference in 2020. In order to avoid redundancy, the relevance of the NBT can be increased by inviting the Nuclear Weapon States in informal meetings to debate new measures that are yet to be defined or are unaddressed in the treaty. The signatory states of the NBT may also consider reviving the voluntary measures for initiating unilateral or bilateral commitment or further arranging the international conferences on the issue of humanitarian aspects for seeking common grounds for all of the states' interests.*

Keywords: Nuclear Ban Treaty, treaty on the prohibition of nuclear weapons, humanitarian impact of nuclear weapons, dangers of nuclear war, states' security interests

* Mahvish Malik is a former participant at 2018 Nuclear Security Policy Boot Camp at George Washington University, US. (Email: malik.mahvish414@gmail.com).

Introduction

The debate on the Humanitarian Impact of Nuclear Weapons (HINW) is considered as an emerging trend in the Nuclear Non-Proliferation Regime (NPR). The existing legal framework which includes NPT¹ and CTBT² doesn't address the humanitarian aspect with regards to nuclear use in the regime. In this context, after the decade's long struggle, the United Nations formally adopted a document, called the Treaty on the Prohibition of Nuclear Weapons (TPNW) – also known as the NBT.³

The treaty draft was approved on 7 July 2017, in a meeting in which 124 out of 193 UN members participated.⁴ All North Atlantic Treaty Organization (NATO) members and nuclear weapon states except Netherlands, who voted against the treaty, did a formal boycott of the conference but the treaty was concluded. Singapore abstained from voting, making the final tally of the vote 122 in favor of the treaty, one against and one abstainer.⁵

The treaty is subject to the ratification after any 50 UN member states will sign it and it further will seek an entry into force within 90 days.⁶ As of 10 December 2019, total signatory states remain 80 and 34 states have ratified it.⁷

Major Debate on NBT

The nuclear weapons technology and its potential dangerous repercussions are well-known to the world. Different Western anti-nuclear lobbies remain vigilant in providing

¹ NPT: opened for signature in 1968 and entered into force in 1970. “United Nations,” <https://www.un.org/disarmament/wmd/nuclear/npt/>.

² CTBT: negotiated in 1980s and require 44 States ratification- as per Annex 2 of the treaty- for its entry into force. “United Nations,” <https://www.un.org/disarmament/wmd/nuclear/ctbt/>.

³ “Conference to Negotiate Legally Binding Instrument Banning Nuclear Weapons Adopts Treaty by 122 Votes in Favour, 1 against, 1 Abstention,” *United Nations General Assembly (UNGA)*, July 17, 2017, <https://www.un.org/press/en/2017/dc3723.doc.htm>.

⁴ Ibid.

⁵ “Conference to Negotiate Legally Binding Instrument Banning Nuclear Weapons Adopts Treaty by 122 Votes in Favour, 1 against, 1 Abstention,” *UNGA*, July 17, 2017

⁶ Ibid.

⁷ “Signature/ratification status of the Treaty on the Prohibition of Nuclear Weapons,” *ICAN*, 21 Sep, 2019, <http://www.icanw.org/status-of-the-treaty-on-the-prohibition-of-nuclear-weapons/>.

awareness against irreversible cost of this weapon technology.⁸ These states have been sharing concerns on this issue on different international platforms including the UN and International Atomic Energy Agency (IAEA) as well as at various NPT Review Conferences (RevCons).

Following is an overview of the historic premise of the NBT and other-related initiatives as mentioned below:

- I. In the aftermath of 1996 advisory opinion of the ICJ over prohibiting the use or threat of use of nuclear weapons, the UNGA adopted Resolution titled, “Advisory Opinion of the International Court of Justice on legality of the threat or use of nuclear weapons.”⁹
- II. At the 52nd UNGA Session, a draft model of the Nuclear Weapons Convention (NWC) over proposing multilateral negotiations on eliminating nuclear weapons was presented. It emphasized on a phased program of nuclear weapon’s elimination under effective international control.¹⁰
- III. At the 62nd UNGA Session, Costa Rica in collaboration with Malaysia presented an updated draft model of NWC. The delegations submitting this Model had an argument about the lack of new ideas or new debate in this domain. Rather, the original model of the NWC was agreed on conducting future talks on this subject.¹¹
- IV. In 2008, a Five-Point Plan on Nuclear Disarmament was proposed by the former UN Secretary General Ban Ki Moon. This Plan urged to the five nuclear-armed states to fulfill their respective underlined promises under NPT; and emphasized upon the

⁸Arjun Makhijani, “A Readiness to Harm: The Health Effects of Nuclear Weapons Complexes,” *Arms Control Today*, July 1, 2005, https://www.armscontrol.org/act/2005_07-08/Makhijani.

⁹“UNGA Resolution 51/45 on General and complete disarmament,” *United Nations General Assembly*, 1996, http://www.un.org/en/ga/search/view_doc.asp?symbol=A/RES/51/45.

¹⁰ “Nuclear Weapons Convention,” *The Lawyers Committee on the Nuclear Policy*, <http://lcnp.org/mnwc/index.htm>.

¹¹“Letter dated 17 December 2007 from the Permanent Representatives of Costa Rica and Malaysia to the United Nations addressed to the Secretary-General,” http://inesap.org/sites/default/files/inesap_old/mNWC_2007_Unversion_English_N0821377.pdf.

- transparency, accountability and rule of law for commencing multilateral nuclear disarmament negotiations.¹²
- V. After two years, the 2010 NPT RevCon highlighted this HINW and adopted a document over risks of nuclear war and its impact on humanity.¹³
- VI. The next two follow-up (68th and 69th) UNGA sessions also renewed the debate on the HINW and nuclear disarmament, which gained the attention of international civil societies and the overall global organizations. The focus on this issue remains precedential to three international conferences on the HINW in which the first one was Oslo in 2013.¹⁴
- VII. The next UNGA session also passed a resolution on enchanting the multilateral nuclear disarmament negotiations. Moreover, two main international conferences on HINW promoted that the only effective measure to prevent any humanitarian consequences of nuclear use is a path towards universal nuclear disarmament in 2014.¹⁵ These conferences also shared their critical views over rapid nuclear modernization and excessive military expenditures by the NWS.¹⁶
- VIII. In parallel to the 70th UNGA session and its resolutions on HINW, the other notable development remained the Austria's forwarded Humanitarian Pledge at the 2015 NPT RevCon. This Pledge raised similar concerns that are previously highlighted in 2010 NPT RevCon, on the issue of HINW.¹⁷
- IX. In 2016, 71st UNGA session extensively discussed the debates on the prospects of a NBT and called for a Resolution L.41, the draft of which was adopted on October 27, 2016.

¹² “The Secretary-General’s five point proposal on nuclear disarmament,” *United Nations Office for Disarmament Affairs (UNODA)*, <https://www.un.org/disarmament/wmd/nuclear/sg5point/>.

¹³ “Proposed Nuclear Weapons Convention,” *Nuclear Threat Initiative (NTI)*, last updated on May 7, 2017, <http://www.nti.org/learn/treaties-and-regimes/proposed-nuclear-weapons-convention-nwc/>.

¹⁴ “Disarmament and International Security Committee (First Committee),” *Nuclear Threat Initiative (NTI)*, last updated on March 30, 2015, <http://www.nti.org/media/documents/unfirstcommittee.pdf>. & “Proposed Nuclear Weapons Convention,” *NTI*, last updated on May 7, 2017

¹⁵ *Ibid.*

¹⁶ “Proposed Nuclear Weapons Convention,” *NTI*, last updated on May 7, 2017

¹⁷ *Ibid.*

The fifty-seven States co-sponsored this resolution.¹⁸ This was formally adopted on December 23, 2016. 113 states voted in favor, 35 states voted against and 13 nations remained abstained including China, Pakistan and India. Other main countries like the US, UK, Russia, Israel, and France opposed the treaty, and North Korea did not vote either in favor or against the treaty.¹⁹

Hence, in the backdrop of this Resolution L.41, a one-day organizational session on the proposed NBT was held on 16 Feb 2017.²⁰ This session adopted the draft for the provisional agenda and rules of procedure for the two conferences in 2017. The final draft of this NBT was approved at the end of the second conference on 7 July 2017.²¹

Overview of the NBT

The text of the treaty contains 20 articles.²² The main theme highlights that “*the catastrophic humanitarian consequences that would result from any use of nuclear weapons,*” simultaneously calls for a legally-binding measure that “*remains the only way to guarantee that nuclear weapons are never used again under any circumstances.*”²³

¹⁸ “UN Seventy-First Session First Committee - General and complete disarmament: taking forward multilateral nuclear disarmament negotiations,” *UNGA*, 2016, <http://reachingcriticalwill.org/images/documents/Disarmament-fora/1com/1com16/resolutions/L41.pdf>.

¹⁹ “Voting on UN resolution for nuclear ban treaty,” *International Campaign to Abolish Nuclear Weapons (ICAN)*, Dec 23, 2017, <http://www.icanw.org/campaign-news/voting-on-un-resolution-for-nuclear-ban-treaty/>.

²⁰ “United Nations Conference to Negotiate Ban on Nuclear Weapons Holds First Organizational Meeting, Adopts Agenda for 2017 Substantive Session,” *UN*, Feb 16, 2017, <https://www.un.org/press/en/2017/dc3685.doc.htm>.

²¹ “United Nations conference to negotiate a legally binding instrument to prohibit nuclear weapons, leading towards their total elimination,” *UNGA*, July 7, 2017, <http://undocs.org/A/CONF.229/2017/8>.

²² Treaty on the Prohibition of Nuclear Weapons,” *UN*, <https://www.un.org/disarmament/wp-content/uploads/2017/10/tpnw-info-kit-v2.pdf>.

²³ “United Nations conference to negotiate a legally binding instrument to prohibit nuclear weapons, leading towards their total elimination,” *UNGA*, July 7, 2017.

Under this treaty, signatory states must agree to call for a complete abolition of all stages of the nuclear weapon technology including its deployment and horizontal transfer to other states.²⁴

The treaty also calls for non-nuclear armed states to sign IAEA comprehensive safeguard agreements before joining the treaty. For the NWS, the treaty stipulates that these states would be obliged to sign an agreement with the IAEA and declare all of its nuclear related developments.²⁵ Although, these agreements will be comprehensive or facility specific, it is not stipulated under the treaty text leading to ambiguity over the issue.

The details didn't allow the deal to be a subject for the reservations; therefore, the treaty was required to be ratified in its full form by all states. The treaty is also based for an unlimited duration, which eliminates the risk of its renewal date in the future. Another provision on withdrawal clause allows states to submit their notification of withdrawal that would be effective after a twelve months period of the notification, and is received by the State Parties to the treaty. Nonetheless, if the State requesting withdrawal is in an armed conflict at the end of the twelve months, then the treaty will continue to apply till end date of the conflict.²⁶ This is an important stipulation, as it is different from other such treaties.

Country Positions

Some major states which had favoured and shared their country position on supporting NBT includes Austria, Argentina, Brazil, South Africa, Iran, Marshall Islands, Sweden, Switzerland, Nigeria, Thailand, Indonesia and Ireland. Their main positions could be explained in a conclusion that the world should avoid nuclear bombing incidents like Hiroshima and Nagasaki. The appreciation for the universality of this treaty is also observed highly.²⁷ The Marshall Islands, being an ally of the US, has explicitly mentioned that their statement regarding

²⁴“Treaty on the Prohibition of Nuclear Weapons,” *UN*.

²⁵ *Ibid*.

²⁶ “Treaty on the Prohibition of Nuclear Weapons,” *UN*.

²⁷ Treaty on the Prohibition of Nuclear Weapons,” *UN*.

in the favour of the treaty should not be considered as its full willingness towards joining this treaty.²⁸

NATO members did not attend any meeting and highlighted that the nuclear weapons are essential for the preservation of a state's security. Whereas, another NATO member Netherlands, has opposed this treaty by stating that this NBT has inadequate verification provisions, which are incompatible with the norms of the NATO and it undermines the NPT process.²⁹

Opposition and Abstention of Nuclear Weapons States: The US-led bloc including France and UK declined signing or ratifying this treaty and mentioned that “a purported ban on nuclear weapons, that does not address the security concerns that continue to make nuclear deterrence necessary, cannot result in the elimination of a single nuclear weapon and will not enhance any country's security, nor international peace and safety”.³⁰ Likewise, an addition is also highly discussed that: “This treaty offers no solution to the grave threat posed by North Korea's nuclear program, nor does it address other security challenges that make nuclear deterrence necessary”.³¹

China abstained from voting in Dec 2016 for the Resolution, didn't submit any country position to the UN. Also, Israel didn't submit their country's position or reflected on this issue in the media. Similarly, North Korean position on this issue was not observed.³²

Considering the Russian position, “it shares the sentiments and conclusions which have been voiced in the statement delivered by the U.K, the US and France on the resolution L.41. As regards the ban on nuclear weapons, a prohibition on nuclear weapons, we believe that the initiative to prohibit nuclear weapons is a destructive initiative”.³³

²⁸ United Nations conference to negotiate a legally binding instrument to prohibit nuclear weapons, leading towards their total elimination,” *UNGA*, 7 July 2017

²⁹ *Ibid.*

³⁰ Rick Gladstone, “A Treaty Is Reached to Ban Nuclear Arms. Now Comes the Hard Part,” *The New York Times*, July 7, 2017, <https://www.nytimes.com/2017/07/07/world/americas/united-nations-nuclear-weapons-prohibition-destruction-global-treaty.html>.

³¹ “U.S., Britain, France reject nuclear ban treaty,” *ABS.CNS.com*, Jul 8, 2017, <http://news.abs-cbn.com/overseas/07/07/17/us-britain-france-reject-nuclear-ban-treaty>.

³² “Full voting result on UN resolution L.41,” *ICAN*, <http://www.icanw.org/campaign-news/results/>.

³³ “Russia Explanation of vote – 27 October 2016,” *Reaching Critical Will*, <http://www.icanw.org/wp-content/uploads/2016/10/Russia-EOV.pdf>.

Pakistani representatives highlighted that, “Pakistan supports the objective of nuclear disarmament. This objective can only be achieved as a cooperative and universally agreed undertaking, through a consensus-based process involving all relevant stakeholders, in a manner that results in equal and undiminished, if not increased security for all states”.³⁴ This statement was delivered after Pakistan abstained from voting for the Resolution L.41.

Furthermore, Pakistan’s official position on TPNW states that,

“Pakistan, therefore, like all the other nuclear armed states, did not take part in its negotiation and cannot become a party to this Treaty. Pakistan does not consider itself bound by any of the obligations enshrined in this Treaty. Pakistan stresses that this Treaty neither forms a part of, nor contributes to the development of customary international law in any manner.”³⁵

Likewise, India also abstained and stated that,

“Disarmament is a Charter responsibility of the UNGA. In exercise of this responsibility the First Special Session on Disarmament of the UNGA established the disarmament machinery with the Conference on Disarmament (CD) as the single multilateral disarmament negotiation forum.”³⁶

Challenges to the NBT

The debate on NBT offers major challenges to the NPR:

First, the issue of overlapping of NBT with NPT and CTBT is prominent, as shown in *Annex A*. The mainstreamed debate on ‘premise’ of this NBT is still equivocal. This window of opportunity is providing a space to the P5 states to relinquish their bona fide obligations towards nuclear disarmament. Such obligations are also overlooked under NPT.

³⁴ “Explanation of Vote on draft resolutions entitled "Taking Forward Multilateral Nuclear Disarmament Negotiations" contained in documents (L.41),” *RCW*, http://reachingcriticalwill.org/images/documents/Disarmament-fora/1com/1com16/eov/L41_Pakistan.pdf

³⁵ Press Statement on the Treaty on the Prohibition of Nuclear Weapons (Nuclear Weapons Ban Treaty), *MOFA*, Aug 7, 2017, <http://www.mofa.gov.pk/pr-details.php?mm=NTE5MA>.

³⁶ “Explanation of Vote by India on First Committee Resolution L.41”, *RCW*, Oct 28, 2016, http://reachingcriticalwill.org/images/documents/Disarmament-fora/1com/1com16/eov/L41_India.pdf.

Second, the text of the treaty appears to be obscure and political in nature. The scope of the treaty underlines the significance of the HINW. However, the remaining provisions of the treaty are also elusive and overpasses the prerequisite contours of the International Humanitarian Law (IHL). The fundamentals of IHL aim to extricate between soldiers and civilians. Likewise, it emphasized on minimizing the indiscriminate use of force; and focus on proportionate level of responses.³⁷

In this regard, the political nature of NBT seems to be facing many challenges as this treaty does not offer any explicit legal guidelines. A better approach calls for gathering an insight through deliberations on legal measures against nuclear weapon uses, which in turn may strengthen the scope of the treaty.

Third, the lack of any conforming incentives for NWS within NBT is not prompting these states to sign this treaty. The main concern of these countries is to protect their national security interests and to protect their territorial sovereignty.

Four, the role of the emerging technologies including Artificial Intelligences and cyber warfare offers implications for the nuclear command and control systems. These technologies infer the ‘irreversible’ challenges to humanity. Therefore, NBT could be the first step in defining the legal debate of the IHL for further plugging the legal gaps in this domain. Indeed, these technologies will hamper the debate on the HINWs as they possibly cannot differentiate between civilians and non-civilians.

Five, the deliberations among those States who champion this NBT debate should also take emerging geo-political situation into their consideration. NBT’s attempt to challenge the notion of ‘nuclear deterrence’ is ‘deeply flawed’. Such issues needed to be addressed through an alternative approach of ‘collective transnational security’ paradigm.³⁸ In this manner, the stated

³⁷ “International Humanitarian Law: A Comprehensive Introduction,” ICRC, Sep 2, 2016, <https://www.icrc.org/en/publication/4231-international-humanitarian-law-comprehensive-introduction>.

³⁸ Dr Nick Ritchie, “The Treaty on the Prohibition of Nuclear Weapons: delegitimising unacceptable weapons,” in *Breakthrough or Breakpoint? Global Perspectives on the Nuclear Ban Treaty-Global Security Special Report*, pp.49, <https://www.europeanleadershipnetwork.org/wp-content/uploads/2017/12/ELN-Global-Perspectives-on-the-Nuclear-Ban-Treaty-December-2017.pdf>.

modernization of the nuclear arsenal in the US Nuclear Posture Review and Missile Defense Review³⁹ and the subsequent developments by the states is appearing to be a concern for the NBT and other non-proliferation cartels.⁴⁰ Another geo-political trend highlights the rise of the extreme nationalist leaders having the command of the nuclear weapons in their hand. Such scenarios refer to the potential war-fighting strategies vis-a-vis their adversaries by denouncing global peace and ignoring the ramifications of the HINWs. The recent example of Indian PM Modi, a follower of an extreme Hindutva ideology, has called for a ‘nuclear war’ between Pakistan and India in the Post Pulwama crisis.⁴¹ This episode presents the classic case study for understanding the dangerous Indian mindset towards glorifying nuclear war in South Asia. Also, the personality analysis of such extreme BJP leadership reduces the much needed debate on the HINWs between Pakistan and India. It narrows any possible confidence building measures on nuclear arms control and nuclear risk reduction measures in South Asia.

Six, as the HINW would remain an emerging trend; therefore, it is likely that the scope of NPT may also be hijacked by the NBT anti-nuclear lobby and NNWS at the NPT RevCon 2020.

Seven, with the US attempt to mainstream its new proposal on CEND (Creating an Environment in Nuclear Disarmament)⁴² is likely to introduce the parallel mechanisms to the NBT.⁴³ A dedicated effort has been made in gathering states from all around the world in Washington, DC to kick-start this process, especially by defining the ‘suitable’ political

³⁹ “U.S. NPR 2018,” *U.S. Department of Defense*, <https://www.defense.gov/News/SpecialReports/2018NuclearPostureReview.aspx>. & “The 2019 Missile Defense Review: A Good Start,” *CSIS*, January 17, 2019, <https://www.csis.org/analysis/2019-missile-defense-review-good-start>.

⁴⁰ Mahvish Malik, “Nuclear weapons ban treaty — a dilemma,” *Daily Times*, 28 Feb, 2019, <https://dailytimes.com.pk/359522/nuclear-weapons-ban-treaty-a-dilemma/>

⁴¹ “Both are nuclear powers’: Imran Khan warns world of India-Pakistan tension,” *Business Today*, Aug 2019, <https://www.businesstoday.in/current/world/both-are-nuclear-powers-imran-khan-warns-world-of-india-pakistan-tension/story/375467.html>.

⁴² Tariq Rauf, “Visions of Butterflies and Unicorns as the Nuclear Arms Control Architecture Collapses: The Final Session of the Preparatory Committee for the 2020 Non-Proliferation Treaty Review Conference,” *Journal of Strategic Affairs*, pp. 6, <https://ssii.com.pk/wp-content/uploads/2019/06/02-Visions-of-Butterflies-and-Unicornsas-the-Nuclear-Arms-Control-Architecture-Collapses-Tariq-Rauf.pdf>.

⁴³ Lyndon Burford, Oliver Meier, Nick Ritchie, “Sidetrack or kickstart? How to respond to the US proposal on nuclear disarmament.” *Bulletin of the Atomic Scientists*, April 19, 2019, <https://thebulletin.org/2019/04/sidetrack-or-kickstart-how-to-respond-to-the-us-proposal-on-nuclear-disarmament/>

environment for nuclear disarmament in future. Many academics have predicted its ‘failure’ even before it start drafting its modalities.⁴⁴ Such initiatives are agenda driven mainly to develop pro-US narrative that US is the only state that champions this ‘nuclear disarmament’ debate. Additionally, to divert the world’s attention from likely critique in the next 2020 NPT RevCon because of these major factors including its withdrawing from the Intermediate Nuclear Forces (INF) Treaty after a long standing ‘blame-game’ against Russians⁴⁵; and from the Joint Comprehensive Plan of Action (JCPOA).⁴⁶

Eight, an issues related to the verification of nuclear dismantlement as it still remains a grey-area under NBT.⁴⁷ Initially, these comprehensive safeguard agreement were introduced in the NPT text for NNWS, and P5 NWS (US, Russia, China, UK, and France) had signed voluntary offer safeguards agreements.⁴⁸ The ambiguity in the text of the NBT suggests that all states including NWS and NNWS need to sign this safeguard agreement and declare all nuclear facilities under IAEA safeguards. If that be the case, then NBT has attempted to minimize the political leverages that P5 states have under NPT for not declaring all nuclear facilities under IAEA safeguards. According to the NBT text, NWS needs to have a credible assurance for non-diversion of nuclear technology from civilian use. This obligation is already under practice between P5 state and the IAEA under voluntary offer safeguards agreements. Nonetheless, the obligation demanding to declare all nuclear facilities under IAEA will still face challenges in its implementation.

Recommendations

NBT is aimed to achieve nuclear disarmament with the universal participation of all states possessing nuclear technology. Apart from this, NBT and Model NWC supplements with

⁴⁴ Opcit.

⁴⁵ MICHAEL R. POMPEO, “U.S. Withdrawal from the INF Treaty on August 2, 2019,” <https://www.state.gov/u-s-withdrawal-from-the-inf-treaty-on-august-2-2019/>.

⁴⁶ “Donald Trump declares US withdrawal from Iran nuclear deal,” *Al Jazeera*, 9 May, 2018, <https://www.aljazeera.com/news/2018/05/donald-trump-declares-withdrawal-iran-nuclear-deal-180508141155625.html>.

⁴⁷ Michal Onderco, “Why nuclear weapon ban treaty is unlikely to fulfil its promise,” *Global Affairs*, pp.394, <https://www.tandfonline.com/doi/pdf/10.1080/23340460.2017.1409082?needAccess=true>.

⁴⁸“ IAEA Safeguards, “*IAEA*, <https://www.iaea.org/topics/safeguards-agreements>.

to the other existing and legal frameworks⁴⁹ that complements the legal strength to the normative process of the broader nuclear regime.⁵⁰ Whereas, the NBT's relevance can be increased in following ways:

- I. NBT needs to focus on its scope that deals to limit the HINW. For this, the middle ground could be to amend the treaty and create a more focused, rationale and balanced debates on humanitarian aspects.
- II. It should also not be sharing clauses with NPT and CTBT as they already existed for almost all the states in the NPR rather they should be modified and enhanced. This may encourage NWS to participate and share their positions on side-lines as well as informal meetings at NBT sessions.
- III. NNWS should distinguish that most of the NWS are not in denial of future implications of the HINW, whereas, they cannot afford to disarm their nukes in the presence of the nuclear war-fighting strategies that threatens to their survival as a state. NNWS may introduce the voluntary proposal for all nuclear armed states to declare their unilateral or bilateral commitment that would not exploit HINW in times of crises, till the time the NPR seeks the non-discriminatory and universal nuclear disarmament. There is a dire need to revive the voluntary measures for initiating the international conferences on the issue of humanitarian consequences for gathering detailed perspectives from across the world. They may invite representation from the NWS to present papers on this subject and would also offer common solutions in this regard.
- IV. NBT may also establish the Group of Governmental Experts (GGE) to invite states, civil societies and academia to assess and offer counter-productive solutions. It may help to gather the clarity and consensus on the issue that previously lacks in understanding the scope of NBT.

⁴⁹ Existing legal frameworks are Chemical Weapons Convention, Biological and Toxic Weapons Convention, Nuclear Weapons Free Zones and Fissile Material Cut-off Treaty. Merav Datan & Jürgen Scheffran, "The Treaty is Out of the Bottle: The Power and Logic of Nuclear Disarmament," *Journal for Peace and Nuclear Disarmament*, pp.128, <https://www.tandfonline.com/doi/pdf/10.1080/25751654.2019.1584942?needAccess=true>

⁵⁰ Ibid.

Conclusion

Undeniably, NBT is a commendable initiative to reiterate the dangers of nuclear war towards humanity. The treaty has drawn a phenomenal political awareness among international community on nuclear disarmament related issues. Conversely, the treaty remains ineffective against ending the political polarization among states on issues of nuclear disarmament. The potential dangers of nuclear escalation and war-fighting policies also offer challenges in this domain.

In political spirit, this treaty has certainly provided a dire insight for renouncing the potential dangers of nuclear war. This political eagerness along with the mainstreamed role of the civil societies in narrative building on banning nuclear weapons may not exclusively safe the humanity from potential threats of nuclear war. The future of NBT will become redundant if the treaty will not clearly work on its scope that should go beyond seeking the ambiguity and overlapping from other treaties such as NPT and CTBT. The dominant political aspects of the NBT have not yet considered the legal framework of IHL. Hence, this humanitarian aspect cannot be addressed adequately by leaving out the NWS from this debate. Therefore, before proceeding towards NBT, the voluntary measures regarding unilateral or bilateral assurances from NWS against exploiting HINW could be proposed.