How to Ensure the Success of the 2020 NPT Review Conference?

Paper
Introduced by
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The following are major elements in the preparation of the 2020 NPT Review Conference: namely Nuclear Disarmament, Non-Proliferation, the TPNW, Consistency of NPT and TPNW, NSA, Peaceful Uses of Nuclear Energy, the Middle East Zone and Conclusions.

I. Nuclear Disarmament and Non-Proliferation:

1. The Final Document of SSODI called for "a code of peaceful conduct of nations that would preclude the use or threat of use of nuclear weapons". (1) The UN General Assembly reaffirmed that any use of nuclear weapons and nuclear explosive devices (NEDs) would be a violation of the Charter of the United Nations and a crime against humanity. (2) We have to add to it, that any threat of use of such weapons should be equally condemned since it violates the principles of the United Nations Charter as embodied in its Article (2) paragraph 4.

2. The General Assembly stressed that an international convention on the prohibition of the use of nuclear weapons is an important step in a phased programme towards the complete elimination of nuclear weapons and NEDs

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1 Para. 58 of SSODI.
2 GA RES. 72/59, GA RES. 1651 (XVI), GA RES. 34/83 and GA RES. 36/92.
with a specified time frame.\(^{(3)}\) The said resolution reiterated its previous request to the Conference on Disarmament (CD) to commence negotiations on an international convention prohibiting the use or threat of use of nuclear weapons under any circumstances. In addition, the General Assembly stressed that it is in the interest of humanity that nuclear weapons never be used again under any circumstances, and the only guarantee that nuclear weapons will never be used again is their total elimination.\(^{(4)}\)

3. The General Assembly called upon all States to prevent the use of nuclear weapons, to prevent their vertical and horizontal proliferation and to achieve nuclear weapons disarmament. Notwithstanding such provisions, news media reported that certain Nuclear Weapons States (NWSs) developed and modernized recently nuclear weapons that were adapted to be used in conventional armed operations. Such activities are by definition nuclear weapons proliferation and a violation of the letter and spirit of the NPT. Such activities are obstacles to achieve nuclear disarmament and impediment to the realization of a nuclear weapon-free world.

4. NWSs must fully abide by their obligations derived from Articles (I) and (VI) of the NPT. Furthermore, NWSs should desist from their policy of nuclear-sharing within NATO / Non-Nuclear Weapons States (NNWSs) or States that did not accede to the NPT, namely, DPRK, India, Israel and Pakistan.

5. In his address before the CD in Geneva on 26\(^{th}\) February 2018, the UN Secretary-General announced a new United Nations initiative for nuclear disarmament. He expressed concern at the current possession of 15,000 nuclear weapons and the $1.5 trillion of arms spending; an initiative aimed at giving

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\(^{3}\) GA RES. 72/59.  
\(^{4}\) GA RES. 72/30.
greater impetus and direction of the global disarmament agenda; forging a new momentum on eliminating nuclear weapons. The initiative of Antonio Guterres would have an important impact on policies and practices of the nuclear armed and allied countries.

6. The considerable financial spending currently dedicated to nuclear weapons and development of their safety and security maintenance should be recalibrated and devoted to support peace, security, together with the realization of a dignified life for all human beings and the welfare of humanity, including the implementation of the Sustainable Development Goals (SDGs).

II. The Treaty on the Prohibition of Nuclear Weapons (TPNW):

7. The TPNW was adopted on 7th July 2017 by 122 countries with one vote against, namely the Netherlands. About 130 countries participated in its negotiations, while numerous Nuclear Armed States (NASs) and their allies boycotted the negotiations. Fortunately, some European countries including certain EU members participated in these negotiations including Austria, Ireland, Sweden and Switzerland.

8. The treaty was opened for signature on 20 September 2017 in New York, at the beginning of the 72nd General Assembly session. The TPNW will enter into force once 50 countries ratify it. It calls for its universality and it is for an indefinite duration. It is expected that more countries will sign and ratify the TPNW, particularly at the United Nations High Level Conference on Nuclear Disarmament that is scheduled to take place in New York from 14th to 16th May 2018. So far, with Bolivia signing the treaty on 16th April 2018, the number of signatories reached 58 countries, including Austria, Liechtenstein and New Zealand, with 7 countries that ratified it.
9. UN Secretary-General Antonio Guterres stated, after the treaty adoption on 7th July 2017, that: "the treaty represented an important step and contribution towards the common aspiration of a world without nuclear weapons". However the NASs opposed the treaty; they are not expected to join it. Hence, they would not be bound by its provisions. In this spirit, France, UK and USA issued a joint statement on 7th July 2017 opposing the TPNW and declaring their continued reliance on nuclear weapons as deterrence in the future. It is worth noting that the rest of NATO members issued a separate statement, declaring that it is important to start implementing Article (VI) of the NPT, which hypothetically but evasively leads to nuclear disarmament. Hence, NATO memberships are divided with regard to the TPNW.

10. The General Assembly welcomed the successful adoption of the TPNW on 7th July 2017 and urged all NWSs to take effective disarmament measures to achieve the total elimination of all nuclear weapons at the earliest possible date. It urged the NWSs to stop immediately the qualitative improvement, development, production and stockpiling of nuclear weapons and their delivery systems. (5)

11. The General Assembly reiterated the unequivocal undertaking by NWSs in the Final Document of the 2000 NPT Review Conference to accomplish the total elimination of their nuclear arsenals leading to nuclear disarmament including the 13 practical steps for nuclear disarmament. However such undertaking failed to specify a time bound frame for their operationalization.

12. The TPNW could have implications on the policies and practices of the NASs, particularly in case the treaty States parties decide to halt investments in nuclear weapons corporations. Devestment would sustain campaigns to influence

\[5\] GA RES. 72/30 and GA RES. 72/38.
national parliamentarians and governments to exercise budget financing restraints of nuclear weapons. The TPNW States parties could be encouraged by their parliamentarians and civil societies to prohibit investments in nuclear weapons corporations by highlighting the unethical corporate’s production of such devastating weapons of mass annihilation, i.e. nuclear weapons.

13. ECFA and other Egyptian think tanks wish to congratulate ICAN for its relentless efforts in promoting such treaty and for which ICAN was awarded the Noble Peace Prize in 2017 in recognition of its campaign in favor of the said treaty together with other think tanks and civil society organizations in the world that also campaigned in this direction. (6) Against this background, all Nuclear Armed States should sign and ratify that treaty as soon as possible. The PNND and other parliamentarians were involved in a campaign of devestment in nuclear weapons production, upgrading and modernizing. It is hoped that this campaign would be supported by all peace-loving nations.

III. **Consistency of the NPT and the TPNW:**

14. A question was put regarding the consistency of the TPNW and the NPT provisions. As a lawyer, I am confident that the two treaties are compatible since the objective of the two treaties is only one, namely nuclear disarmament. This is reflected in the pan-ultimate preamble paragraph of the NPT which states "Desiring to further the easing of international tension and strengthening of trust between States in order to facilitate the cessation of the manufacture of nuclear weapons, the liquidation of all their existing stockpiles, and the elimination from national arsenals nuclear weapons and the means of their delivery, pursuant to a Treaty on general and complete disarmament under strict

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and effective international control." This is equally one of the requirements of the TPNW.

15. In addition, Article (6) of the NPT stipulates that "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 international control." After 50 years of the conclusion of the NPT that "early date" was not realized. Out of frustration of such evasive language, the majority of the UN membership adopted GA resolutions 71/71 and 71/258 which paved the way to the TPNW to be negotiated in 2017 and concluded on 7th July 2017.

16. Article (4) of the TPNW provided for the total elimination of nuclear weapons giving room for NWSs to adhere to it through declarations, verification, adherence to IAEA safeguards and time frame phased-elimination of nuclear arsenals and putting an end to stationing on their territories of nuclear arms and devices. In addition, Article (18) of TPNW does not prejudice obligations derived from international agreements that are consistent with that treaty.

IV. Negative Security Assurances (NSAs):

17. The General Assembly reaffirmed the urgent need to reach a legally binding agreement on effective international arrangements to assure NNWSs against the use or threat of use of nuclear weapons (NSAs): (7) The same resolution recommended that the CD actively continue intensive negotiations towards the conclusion of such an international convention based on the previous CD deliberations. The General Assembly called upon all States that have not done

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7 GA RES. 72/25.
so to sign and thereafter ratify, accept or approve that treaty at the earliest possible date. (8)

V. **Peaceful Uses of Nuclear Energy:**

18. NWSs must stop exercising pressure on the NNWSs which opt to exercise their inalienable right to enrich uranium for the peaceful uses of nuclear energy, in conformity with Article (IV) of the NPT. That right was a cornerstone of the NPT balance of rights and obligations of the NPT States parties which should be respected in order to regain confidence in the non-proliferation regime. In addition, in the spirit of the attainment of the objectives of the TPNW and nuclear disarmament, the IAEA additional protocol should be adhered to by the NASs and thus be enforced in the territories of these states, ensuring equal treatment between NWSs and NNWSs.

VI. **Nuclear-Weapon-Free Zone (the Middle East):**

19. The relevant UN General Assembly resolutions called upon all parties directly concerned to take the practical and urgent steps required for the implementation and establishment of a nuclear-weapon-free zone in the Middle East. (9) They should declare solemnly that they will refrain from producing, acquiring or in any other way possessing nuclear weapons and NEDs and from permitting the stationing of nuclear weapons on their territories by any third party. They should also agree to place their nuclear facilities under the IAEA safeguards and to declare their support for the establishment of such a zone and to deposit such declarations with the Security Council. In its operative paragraph 1 of the said resolution, the General Assembly invited such countries to adhere to the NPT. The only Middle East country which has not done so is Israel.

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(8) GA RES. 72/31.
(9) GA RES. 72/24 and Article (VII) of the NPT.
20. In its op. 7, the same GA resolution invited the NWSs and all the other States to render their assistance in the establishment of such a zone and to refrain from any action that runs counter to both the letter and spirit of the said resolution. In addition, the General Assembly in its resolution 72/50 op. 5, called upon all States not parties to the NPT to accede, as a NNWSs, to the treaty promptly and without any conditions to achieve its universality. Those States referred to in the said paragraph are DPRK, India, Israel and Pakistan.

21. Furthermore, the General Assembly stressed the Middle East resolution that was adopted by the 1995 Review and Extension Conference of the NPT as an essential outcome of the 1995 Conference, on the basis of which the said treaty was indefinitely extended (op. 2). (10) The said resolution remains valid until its goals and objectives are achieved (op. 3). GA resolution 72/67 recalled in its op. 1 the conclusions on the Middle East of the 2010 NPT Review Conference and called for the speedy and full implementation of the commitments contained therein. It reaffirmed in its op. 5 the importance of Israel’s accession to the NPT and the placement of all its nuclear facilities under the comprehensive IAEA safeguards for the realization of the goal of the universal adherence to the treaty regarding the Middle East zone.

22. The General Assembly urged the co-sponsors of the 1995 resolution on the Middle East to present proposals and exert their utmost efforts with a view to ensuring the early establishment of a Middle East zone free of nuclear weapons and all other weapons of mass destruction (11) as contained in the said 1995 Middle East resolution.

10 GA RES. 72/67
11 GA RES. 72/39.
23. The 2020 NPT Review Conference should pay attention to the Middle East Zone by devoting sufficient time within its timetable and giving all speakers full opportunity to engage in a substantive debate. This is underlined against the background of the 2000 and 2010 NPT Review Conferences, which stipulated that all States parties to the treaty, particularly the NWSs, the States of the Middle East and other interested States, should report through the Secretariat to the President of the Review Conference, as well as the chairs of its Preparatory Committee meetings, on the steps that they have taken to promote the achievement of such a zone, and the realization of the goals and objectives of the 1995 NPT Review resolution on the Middle East.

VII. **Conclusion: How to Avoid the Failure of the 2020 NPT Review Conference?**

24. To avert any possible failure of the 2020 NPT Review Conference, we should avoid the dictat of the minority and be inspired by Article (18) paragraph 2 of the UN Charter which quote: “decisions of the General Assembly on important questions shall be made by a two-third majority of the members present and voting.” (Unquote)

25. Since the NGOs and civil societies have a great deal of contributions and inputs to the NPT Review Conference, they should be allowed to intervene in all the deliberations of the Review process with regard to all the treaty articles and pillars are the basis of a list of NGOs speakers held by the Chair of each committee of the Review Conference to be taken following the end of the speakers’ list of the treaty States parties. This is exactly the practice followed in the Human Rights Council in Geneva.

26. All the elements stated above should be reflected in the amendment process of the Rules of Procedures of NPT Review Conference.
27. Against this background, NASs should be committed to:

a. Adhere to the TPNW;
b. Prohibit financing of production and modernization of nuclear weapons;
c. De-alert all existing nuclear weapons system until their total elimination;
d. Prohibit threat or use of nuclear weapons;
e. Affirm the illegality of targeting populated areas by using nuclear weapons;
f. Convert all nuclear weapons arsenals / systems to peaceful uses and subject such converted facilities to the IAEA comprehensive safeguard mechanism and its Additional Protocol.