

# TOWARDS A GLOBAL BAN ON NUCLEAR WEAPONS – THE ROLE OF AFRICAN STATES: THE CHAIRPERSON’S SUMMARY

This report, prepared by the International Law and Policy Institute in collaboration with the Institute for Security Studies, provides an overview of the objectives, themes and outcomes of a roundtable discussion entitled “Towards a global ban on nuclear weapons – The Role of African States”, held in Addis Ababa from 5 – 6 June 2012.

The authors of this report bear the sole responsibility for its contents and it should not be seen as an overview of all views expressed during the discussion.

## ORGANISATIONAL FACTUAL SUMMARY

From 5 - 6 June 2012, International Law and Policy Institute (ILPI) and the Institute for Security Studies (ISS) convened a roundtable discussion in Addis Ababa, Ethiopia, in order to discuss the potential role of African States and civil society in the efforts to prohibit nuclear weapons, building on their experiences in other campaigns and multilateral processes. The aim of this roundtable discussion was to explore what roles African states, institutions, and civil society can take in efforts to establish a global ban on nuclear weapons and to discuss the applicability of International Humanitarian Law (IHL) and the importance of a focus on the humanitarian impact of nuclear weapons in this regard. A background document was circulated prior to the roundtable discussion. The roundtable discussion was conducted under the Chatham House rule.

Participants included selected individuals from African States, academia and NGOs with experience in

policymaking on global issues and international law, as well as nuclear disarmament and non-proliferation issues. In total, 26 participants attended the roundtable discussion over the two days – consisting of 18 men and 8 women.

## BACKGROUND

There are still over 20 000 nuclear weapons in the world. Nine states are known to be armed with nuclear weapons: USA, Russia, China, France, UK, India, Pakistan, Israel and North Korea. Five more have US nuclear weapons on their soil: Belgium, the Netherlands, Germany, Italy and Turkey. USA and Russia still have about 95% of the total stockpile amongst these countries. Israel neither confirms nor denies that it has nuclear weapons, but is commonly counted among the nine nuclear-armed states. No African country possesses nuclear weapons today.

The **Nuclear Non-Proliferation Treaty (NPT)** is the key existing legal framework governing proliferation of nuclear weapons under international law. The founding bargain of the treaty was that those who did not have nuclear weapons would not seek them, while those who had them would eventually get rid of them. There is, however, no specified timeline for the completion of this bargain. Critics thus argue that the treaty mainly serves to consolidate the status quo with a biased focus on nuclear non-proliferation, and that it lacks clear instruments for implementing the obligations on “general and complete disarmament”, as required in Article VI of the NPT. That being said, most states perceive the NPT as important in terms of preventing proliferation. Efforts to prohibit

nuclear weapons should be viewed as concrete steps to support the implementation of states' disarmament obligations under Article VI, not as being contradictory or seeking to undermine the NPT. The NPT also provides a standing forum that gathers policy-makers from governments, civil society and international organisations and, as such, provides useful space for informal discussions on the prohibition of nuclear weapons. This may be particularly relevant in the context of ongoing discussions amongst the nuclear-weapon-free zone states, which meet regularly on the margins of the NPT.

**Nuclear Weapons and International Humanitarian Law (IHL):** This body of law is mainly laid down in the four Geneva Conventions and their Additional Protocols, as well as in customary law. Some of the main rules of IHL have also been advanced by treaties prohibiting or regulating specific weapons. A central obligation of any warring party is at all times to distinguish between military targets and civilian objects or persons, and to only attack military targets. This is known as the rule on distinction. Another core rule of IHL is that the acts of warfare employed should never be excessive in relation to achieving the objective of overpowering the enemy, known as the rule on proportionality. The point of departure for IHL is that it is never militarily necessary to attack civilian persons or objects. Finally there is a prohibition in IHL against employing means of warfare that cause unnecessary suffering and superfluous injury. Considering these fundamental rules of IHL, it is hard to imagine how nuclear weapons could be used without grossly violating IHL.

**The potential role of African states:** Through the process of negotiating the Mine Ban Treaty and the Convention on Cluster Munitions, African states have shown that they can play a significant role in international negotiations, especially when acting in concert. Africa could play a key role also in the process towards banning nuclear weapons. African states bring legitimacy to this call from the starting point of the Treaty of Pelindaba, which established the African continent as a nuclear-weapon-free region. In addition, African States played a significant role in the May 2010 NPT Review Conference, both individually and as members of regional groupings such as the Africa Group, the Arab Group and the Non-Aligned Movement (NAM), and, in the case of Egypt, as Chair of NAM (2009-2012). The Africa Group has reaffirmed the urgent need for commitment of the nuclear-weapon states to all the 13 Practical Steps to nuclear dis-

armament, including the need to diminish the role of nuclear weapons in their security policies and the early entry into force of the CTBT as a meaningful step in the realisation of a systematic process to achieve nuclear disarmament.

**Expanding the political space** for discussing nuclear weapons requires a change in how people think about solving the global problem of the existence of 20 000 nuclear warheads capable of destroying the world as we know it. This involves changing the discourse on nuclear weapons and refusing to be constrained by existing mechanisms and forums for discussion. Two important factors in changing the discourse on nuclear weapons are actors and arenas. Over the last few years, a number of new actors have entered the NGO landscape on nuclear disarmament. The International Campaign to Abolish Nuclear Weapons (ICAN) sprung out of the IPPNW<sup>1</sup> in 2007, and the Global Zero campaign was started in 2008 with endorsements of about 300 former military and political leaders. Both these initiatives call for the full elimination of all nuclear weapons, but while Global Zero has adopted a phased strategy with milestones and set targets for elimination, ICAN's sole demand is the negotiation of a comprehensive nuclear weapons convention.

1 International Physicians for the Prevention of Nuclear War.

## ILPI's Nuclear Weapons Project

The ILPI Nuclear Weapons Project started in September 2011 with the aim to shape and inform the debate on how to eliminate nuclear weapons, by way of analysis, networking and outreach. The core of the project is policy-oriented analyses of the relationships between nuclear weapons and international law, as well as on security, developmental and environmental dimensions of nuclear weapons. The project will communicate and cooperate with others working to eliminate nuclear weapons, from States, international organisations and civil society.

Project website: [nwp.ilpi.org](http://nwp.ilpi.org)

Project email: [nwp@ilpi.org](mailto:nwp@ilpi.org)

In 2010, the International Committee of the Red Cross (ICRC) also started to express their concern about the issue, and in November 2011, at the Council of Delegates of the Red Cross and Red Crescent Societies, the national movements adopted a landmark resolution calling for “negotiations to prohibit the use of and completely eliminate nuclear weapons through a legally binding international agreement”.<sup>2</sup> The decision of the Council of Delegates to engage in the work for a ban on nuclear weapons has given an enormous boost to civil society work in this field and has helped to reshape the debate, from a state-security perspective to a humanitarian perspective.

In the outcome document of the 2010 Review Conference of the NPT, a reference was made to the “catastrophic” consequences of any use of nuclear weapons, and this language is gradually becoming more prominent in multilateral discussions.

Actors that could help to broaden and diversify the discourse on prohibiting nuclear weapons could include providers of humanitarian assistance, medical and healthcare workers, development practitioners, agriculture and food security specialists, environmental experts, those working on human rights and humanitarian law, those in the finance and ethical investment sectors and many others.

## AGENDA

The roundtable discussion was divided into four sessions with the following headings:

- Nuclear weapons and regulatory responses, globally, and in an African context;
- Disarmament, humanitarian action and international humanitarian law (IHL);
- Expanding the political space for discussing nuclear weapons and identifying next steps and key actors;
- Africa and nuclear weapons in the coming five years.

<sup>2</sup> <http://www.icrc.org/eng/resources/documents/resolution/council-delegates-resolution-1-2011.htm>

## SUMMARY OF DISCUSSION

The NPT remains important, but there are polarised approaches to its implementation especially regarding its disarmament requirements (Art. VI). It is thus important for African States to continue to actively participate in NPT fora and engage in its processes such as the 2012 – 2015 Review cycle. In this regard it is vital that African States are encouraged by, for example, civil society and other stakeholders and groupings, to include in their general statements more substantial wordings on the need for a process to start as soon as possible to implement concrete steps towards global nuclear disarmament. At the same time however, to move the process forward, there is a need to re-frame the debate to include a focus on the humanitarian consequences of the actual use or detonations by accident of nuclear weapons. The provision in the 2010 Non Proliferation Treaty (NPT) Review Conference Final Document provides a starting point for African States and civil society to do this re-framing, namely, “the Conference expresses its deep concern at the catastrophic humanitarian consequences of any use of nuclear weapons, and reaffirms the need for all states at all times to comply with applicable international law, including international humanitarian law.”

References were also made to the landmark resolution adopted by the Council of Delegates of the Red Cross and Red Crescent Societies in November 2011 calling for “negotiations to prohibit the use of and completely eliminate nuclear weapons through a legally binding international agreement” and its contribution to reshaping the debate from a state-security perspective to a humanitarian perspective.

There seems to be resonance in the African context for the humanitarian approach and for the idea of an international treaty to prohibit nuclear weapons as a means to mobilise support for and implement the NPT’s Article VI.

The African nuclear-weapon-free zone treaty (Treaty of Pelindaba) is a key African convention that can function as an important vehicle to contextualise the humanitarian approach and the need for a total and immediate ban on nuclear weapon possession, stockpiling and use. The Treaty of Pelindaba explicitly calls on the nuclear-weapon states to actively pursue the goal of a nuclear-weapon-free world as embodied in Article VI of the NPT, through the urgent negotiation of agreements with effective measures of verification towards the complete elimination of nuclear

weapons at the earliest possible time.

There also seems to be a particular role for African States in this given that they are all non-nuclear weapon states and members of nuclear-weapon-free zones (NWFZ) – a particular role they could play is to mobilise members of NWFZ's towards this goal.

The planned conference in Oslo in March 2013 on the humanitarian consequences of nuclear weapons presents a unique opportunity both as an event and during its lead-up and aftermath to develop thorough arguments and importantly to expand the political space and hence the actors involved – including States, civil society and international organisations – in taking a humanitarian approach towards the elimination of nuclear weapons. It will also be a platform for civil society, together with supportive states and international organisations, to amplify their call for the commencement of negotiations on an international treaty prohibiting nuclear weapons.

New actors (other than traditional arms control experts) to be galvanised include: humanitarian agencies, first responders, faith-based groups, doctors, activists within fields such as human rights, food security, agricultural and climate change, economists and global financial planners, military strategists, development agencies, trade unions, parliamentary unions (such as the Inter-Parliamentary Union (IPU) and the Pan-African Parliament (PAP)), parliamentarians, diplomatic networks, musicians and artists, academics, as well as national Red Cross and Red Crescent societies etc. To achieve this, civil society, with the support of the International Campaign to Abolish Nuclear Weapons (ICAN), will need to develop strategies to build the capacity of African civil society to engage their national governments. A particular hurdle to overcome in doing this is the existing mind-set amongst many African policy-makers that nuclear disarmament is not a priority issue for them. Civil society in this respect includes enhancing the role of African academics and the media to highlight the issue.

In addition, it is important for African States to be assertive in the NAM context and for African Missions in New York, Geneva and Vienna to enhance their voice in appropriate fora that debate and discuss these issues.

## RECOMMENDATIONS

The African Union, as the depository of the Treaty of Pelindaba, could have a key role in mobilising its member states to articulate a humanitarian approach to the call for the banning of nuclear weapons. Participants raised the issue of investigating the possibility of the African Union developing an African Common Position (ACP) on the implementation of the NPT's Article VI through a new international treaty to ban nuclear weapons; on the disastrous humanitarian consequences of the actual use or detonations by accident of nuclear weapons and how such use of nuclear weapons would be a gross violation of IHL. While this may be a challenging exercise it was pointed out that the *process* of developing an ACP might be as important as its outcome. It would build awareness among African States, civil society and the public at large of the importance of this issue and increase the capacity of these groupings to actively participate at both the national and international levels in the discussions. The process may instil in African States the notion that they too can be norm entrepreneurs while the ACP should cover, inter alia, the socio-economic and humanitarian costs of nuclear weapons use; the responsibility to disarm; a gender perspective etc.

Participants raised the need to consider how best to approach the African Union Peace and Security Council (PSC): identifying a lead State, identifying a reputable African organisation or personality, or assessing whether the newly created oversight body of the Treaty of Pelindaba, the African Commission on Nuclear Energy (AFCON) would be best placed to advocate for such a process. It may be useful to also get the advice of the current chair of the PSC on how best to do this.

The January [2013] AU Summit in Addis Ababa was considered as a possible timeframe for achieving either an AU policy or an African Common Position in favour of negotiations towards a treaty banning nuclear weapons. If this were achieved, it would open the possibility for African states to take a lead within the nuclear-weapon-free zone states in pushing for a joint statement by those states in favour of negotiations towards such a treaty. Such a joint statement could possibly be adopted and delivered by nuclear-weapon-free zone states at their next meeting on the margins of the NPT PrepCom in April 2013.

In addition, four other (though not mutually exclusive) ideas were considered: the development of a AU Summit Resolution; the creation of an "African-Four

Horsemen<sup>3</sup> who can, given their high profile, give prominence to the issue and approach by writing op-eds for highly read African publications; and, approaching the African Court on Human and Peoples Rights (ACH-PR) to consider the human rights aspects of the use of nuclear weapons; and, activating a network of senior African Diplomats.

Internationally, applied policy research institutes are beginning to undertake serious research on this issue. African policy institutes and academics should also be encouraged to undertake rigorous research in this area. Enhancing the production of knowledge, by also including nuclear weapons issues in university curricula, is important in order to engage people and academic communities.

There are many events in Africa or arranged by Africans where this issue can be raised: ICRC regional events, AFCONE Commissioners' meetings and meetings of States Parties to the Treaty of Pelindaba, CTBT regional workshops, meetings of National Focal Points on SALW, PSC meetings, the Africa Groups in New York, Geneva and Vienna, African participants of the annual UNGA First Committee etc. Opportunities also arise in, for example, campaigns to universalise the Treaty of Pelindaba.

Finally, participants encouraged ICAN to consider building up its membership of NGOs within Africa, using existing arms control networks as a basis but expanding into other sectors as described above. Some work in this regard has been undertaken by ISS but needs to be built on. ICAN's existing members in Africa will work with the participants at this meeting to identify opportunities to expand this network. A communications strategy and mechanism would need to be developed, including possible events such as days or weeks of action to mobilise civil society in Africa and around the world.

Participants also encouraged the organisers to continue to provide opportunities and a platform for dialogue and action on the humanitarian dimension to nuclear disarmament and the applicability of IHL, as well as to include a broader range of relevant African stakeholders in such events, in particular the academia, the media, cultural activists and a wide range of civil society actors.

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3 The "four horsemen" is a term that has been used about four elder U.S. statesmen who wrote an Op-Ed in the 2007 in the Wall Street Journal titled "A World Free of Nuclear Weapons".