

## Canada's contradictory military and humanitarian stances

Canada declined to sign on to a joint statement that pointed out the incompatibility of nuclear weapons and international humanitarian law, likely because that would violate its NATO commitment to nuclear deterrence.

By Paul Meyer  
Embassy  
05/01/2013

Nuclear weapons and international humanitarian law have an uncomfortable relationship.

When the 2010 Nuclear Non-proliferation Treaty Review Conference included in its final document its recognition of “the catastrophic humanitarian consequences of any use of nuclear weapons,” it was not setting out a revelation.

What was new, however, was its articulation in an official text of the 190 states that are part of this core international security treaty. For this reference introduced, as an official position, a novel perspective into the proceedings, which until that point had been couched in the well-worn formulas of nuclear weapons policy.

That fresh perspective was essentially to point out the incompatibility of nuclear use, or the threat of that use, with international humanitarian law, while reminding states of their obligation to comply with this law, sometimes referred to as the laws of armed conflict.

The Geneva Conventions are its principal manifestation, and they require that some distinctions—for example between legitimate military targets and illegitimate civilian ones—as well as proportionality and precaution are met when states resort to war. Nuclear weapons respect none of these strictures. This brief observation has provoked considerable dissent in the ranks of NPT members. When a subset of non-nuclear weapon states decided to elaborate on this new theme within the NPT at the currently underway 2013 NPT Preparatory Committee meeting, 77 states associated themselves with a joint statement presented by South Africa.

However several states, usually seen as champions of international humanitarian law, declined to sign on. These states included Canada, Germany, the Netherlands, Italy, Australia, and Japan.

It would appear that these states felt that by endorsing this view they would be in contradiction with another strong commitment in their foreign and security policy—their alliance commitment within NATO, or bilaterally with the US. NATO states retain nuclear deterrence as a core element of their defence strategy, and that deterrence strategy is predicated on the willingness to use nuclear weapons if deterrence fails.

The fact that deterrence is posited on threatening to do something in certain circumstances, which would constitute a violation of international humanitarian law, makes it a problematic policy to support for many states, but support it they still do.

The NATO states, however, are only a minority of NPT members and the larger question is the effect, if any, of the review conference's conclusion on how nations approach their commitments under the treaty. The spotlight here will naturally be on the five nuclear weapon states and their disarmament obligations under the treaty.

The initial reaction of the nuclear weapon states to this expression of humanitarian concern is not promising. These states, the so-called P5, decided to boycott a major conference held in Oslo in early March devoted to the humanitarian consequences of nuclear weapons. Some 127 other states did participate in the meeting, including Canada, and Mexico has offered to host a follow-on conference in 2014.

Perhaps the nuclear-armed countries felt it was easier not to show up than to have to try and defend the compatibility of their nuclear postures and doctrines with the tenets of international humanitarian law.

An alternative, and in my view a wiser, course would have had them participate in Oslo and while not contesting the accuracy of the 2010 NPT Review Conference statement (which let us recall they were party to) go on to defend their intention to achieve nuclear disarmament before it ever gets to that point where nuclear use would be considered.

In the current context, an acceleration of progress on nuclear disarmament and the maintenance of high levels of restraint on the part of states possessing nuclear weapons is probably the most we can aspire to.

In my opinion, there will only be diminishing returns from further efforts to reformulate or elaborate on the brief, but highly significant reference made to the humanitarian consequences of nuclear weapons use achieved at the 2010 NPT Review Conference. What would constitute a more practical follow-up to that declaration would be to focus on the steps necessary to prevent any use of a nuclear weapon.

This means continuing to press for more rapid and comprehensive progress on nuclear disarmament, as the elimination of nuclear arms remains the only sure guarantee against their use. It also means concentrating in the interim on measures of prevention that should diminish the risk of a nuclear detonation through accident, misperception or miscalculation.

Such measures have already featured in the agreed outcomes of previous NPT meetings. In particular, the commitment to reduce the operational readiness of deployed nuclear forces is a key step of prevention. It is also both a practical and symbolic manifestation of the radically different political relationships that now exist amongst the NPT nuclear weapon states.

The activism of the so-called "de-alerting group" of states (Chile, Switzerland, New Zealand, Nigeria, Malaysia) is to be commended in this regard, with their sustained advocacy for changes to these dangerous high-alert nuclear postures that threaten us all.

There are also complementary steps, such as decreasing the role of nuclear weapons in security policies and developing verification capacities, which have already been agreed at NPT Review Conferences, but which await more action.

How best to encourage these risk reduction steps on the part of the nuclear weapon states remains a challenge for the international community. The diplomatic achievement of the 2010 Review Conference in drawing attention to the horrendous humanitarian consequences of nuclear weapon use has once again introduced a moral argument for fulfilling NPT commitments in addition to the international security factors that led to the bargain set out in the treaty.

Alas, appeals to morality tend not to have a long shelf life in official multilateral discussions. They can however help mobilize public opinion in a way that can eventually influence political thinking. The moral dimension, inherent in international humanitarian law, can be made more influential when combined with accountability mechanisms that measure the extent to which states are matching their deeds to their words.

The NPT has been notoriously weak in institutional support and accountability practices. Civil society has tried to fill this gap through assessment reports that monitor compliance with NPT commitments. There are excellent “report cards” that have been prepared by such NGOs as Reaching Critical Will and the Centre for Nuclear Non-proliferation & Disarmament at the Australian National University, but states also need to improve accountability for their actions (or inactions) within the NPT.

Given that all NPT states parties have agreed to the 2010 Review Conference final document, including its humanitarian impact section, it should be a priority task for members to enhance internal accountability in order to assess how states are actually fulfilling their obligations under the treaty and in this way being true to the conclusions commonly arrived at. It is probably only by these means that the practical implications for achieving the NPT goals of the historic references to the humanitarian dimension made at the Review Conference in 2010 can really be judged.

END